CHAPTER XXXIII.

Clauses 461 to 464.

These clauses reproduce the provisions of sections 394 to 397 (*i.e.*, Chapter XXV) of the existing Act, which, it is thought, may conveniently be grouped in the same chapter with the clauses which reproduce sections 556 to 558 (*i.e.* Chapter XLII) of that Act, the subject-matter being analogous.

Clause 466.

Sub-clause (*c*) reproduces section 557(*d*) of the existing Act with alterations in the wording made to exclude land in a *bustee*. Under the existing law *bustee* land is valued differently from other land, and the same method of valuation is provided for in the Bill. It is considered, therefore, that the presumptive value of *bustee* land cannot satisfactorily be fixed in the same way as that of other land under the provisions of this sub-clause. The proviso to section 557(*d*) of the existing Act has not been included in the Bill as its provisions are spent and are therefore no longer required.

CHAPTER XXXIV.

Clause 468.

Sub-clause (1) introduces provisions dealing with municipal debentures which are much needed.

Sub-clause (3) takes the place of section 559 (*51*) of the existing Act, but empowers the Corporation to prescribe the maximum loads, the length of the nave and the minimum width of tyres for carts. In this and other instances, the position of the sub-clause in the clause has been made to conform with the revised arrangement of chapters and clauses in the Bill.

Sub-clause (18) introduces provisions which are required owing to the great increase in the number of advertisements posted on boundary walls and in, or adjacent to, streets and other public places.

Sub-clause (21) provides for the making of by-laws to regulate the construction of verandahs, etc., in streets. This power is considered to be necessary so as to permit of supplementation of the provisions of section 340 of the existing Act, which deal with the construction of verandahs, etc., and which have now been relegated to Schedule XV.

Sub-clause (27) empowers the Corporation to make by-laws to take the place of the provisions of sections 423 to 426 of the existing Act, which it is proposed to omit from the Bill.

Sub-clause (28) similarly provides for the making of by-laws to cover the provisions of sections 432, 434 and 436 of the existing Act.

Sub-clause (29) provides for the making of by-laws in substitution for the provisions of sections 460, 461, 462 and 474 of the existing Act, and also reproduces the provisions of section 559 (*31*) of that Act.

Sub-clause (30) empowers the Corporation to make by-laws to deal with the subject-matter of sections 475 and 476 of the existing Act, which it is proposed to relegate to by-laws.

Sub-clause (31) similarly provides for the making of by-laws covering the provisions of sections 461 and 462 of the existing Act.

Sub-clauses (32), (33) and *(34)*, in which are included the provisions of clauses *(26)* and *(27)* of section 559, provide for the making of by-laws to take the place of the provisions of Chapter XXXI of the existing Act, which it is proposed to omit altogether from the Bill.

Sub-clause (39) introduces provisions for the making of by-laws regarding eating-houses and other similar places.

Sub-clause (40) reproduces the provisions of section 559 (*30*) of the existing Act, but also provides for the making of by-laws to cover the provisions of sections 464(*1*), 465, 466(*2*) and 473 of the existing Act, which it is proposed to relegate to by-laws.

Sub-clauses (41) and *(42)* introduce provisions for the making of by-laws which are much needed to ensure the public safety in places of public resort.

Sub-clauses (45) and *(46)* reproduce the provisions of section 559 (*34*) and (*35*), and also provide for the making of by-laws dealing with the subject-matter of the provisions of section 488 (*a*) and (*d*) of the existing Act, which it is proposed to relegate to by-laws.

Sub-clause (49).—In view of the fact that it is proposed to omit Chapter XXXVI of the existing Act, this sub-clause has been revised to bring it into line with clause 387 of the Bill, which provides for the use of correct weights in the municipal markets.

Sub-clause (53) provides for the making of by-laws to take the place of the provisions of sections 527, 529 (*2*), 530, 535, 537 and 544 of the existing Act, which it is proposed to relegate to by-laws.

Sub-clause (61) reproduces section 559 (*49*), and also provides for the making of by-laws to take the place of sections 549, 550 (*3*), 552 and 553 of the existing Act, which it is proposed to relegate to by-laws.

Sub-clause (*63*) in like manner provides for the making of by-laws to cover the provisions of sections 571 and 572 of the existing Act.

Clause 469.

Sub-clause (*2*) reproduces the provisions of section 464 (*2*) of the existing Act, it being proposed to relegate section 464 (*1*) to by-laws. [*See note on clause 468* (*40*).]

Clause 470.

As it is considered that the maximum penalties imposable under by-laws should be enhanced, the necessary provision has been made here. This clause represents in the main section 561 of the existing Act.

Clause 473.

This clause modifies section 567 of the existing Act by empowering the Local Government to amend all Schedules to the Bill except Schedules I and VI. Schedule I fixes the boundaries of Calcutta for municipal purposes and Schedule VI defines the boundaries of wards. Any alteration of those boundaries is considered undesirable as it would affect not only the elections but also the assessment periods for the wards, and would give rise to many other difficulties. The provisions of section 43(*2*) of the existing Act have for the same reasons not been included in the Bill.

Clause 476.

This clause corresponds to section 570 of the existing Act, but the wording has been altered so as to make it clear that by-laws, after they have been duly sanctioned and published, shall have the same force as law.

CHAPTER XXXV.

Clause 478.

This clause amalgamates the provisions of sections 574 and 575 of the existing Act for the sake of brevity and convenience. It seems to be unnecessary to have two separate sections containing a table, one dealing with maximum fines and the other with daily fines. Numerous alterations have also been made in the table consequential upon the re-arrangement of chapters and the relegation of certain provisions to Schedules and by-laws; and several additions have been made to the table to cover certain existing as well as new provisions for which it has been thought necessary to provide a penalty. In regard to several entries in the table, it has also been thought desirable to make the punishment more severe by increasing the maximum amount of fine to be imposed.

Clause 479.

This clause is based on section 21 of the Bengal Food Adulteration Act, 1919. Certain offences regarding adulteration of food or drugs which are considered to be punishable with increased fine or imprisonment or both for a second or subsequent conviction are included in this clause.

Clause 482.

Sub-clause (1) reproduces section 578 (*1*) of the existing Act, but the reference to "company, association or body of individuals" is omitted in view of the definition of "person" in section 3 (*32*) of the Bengal General Clauses Act, 1899. Ben. Act I of 1899.

Clause 483.

This clause reproduces section 579 of the existing Act, but clause 483(*a*) requires that the permission of the Corporation mentioned therein must be in writing (*cf.* Schedule XVI, rules 64 and 90). For the sake of convenience it is also proposed to include in the table, in clause 478 of the Bill, the penalties for offences against certain provisions which are at present included in section 579. The same remark also applies to sections 580 and 581 of the exsting Act, which are not retained as separate clauses in the Bill, but have been provided for in clause 478.

CHAPTER XXXVI.

Clause 488.

Sub-clause (1) corresponds to section 586 (*1*) of the existing Act, but its provisions have been amplified so as to prescribe certain particulars which, it is proposed, should be specified in all licenses and written permissions.

Sub-clause (2) reproduces the provisions of section 586 (*2*) of the existing Act, with certain qualifications necessitated by the fact that the Bill in some cases provides for the charging of a fee while in others no such fee is chargeable.

Sub-clause (5) reproduces section 586 (*5*) of the existing Act with an alteration in the wording made in order to meet the suggestion that an order suspending or revoking a license can remain in force only for the period for which the license was granted, and that, on the expiration of that period, the licensee is entitled to renew his license, as a matter of right, in the ordinary course.

Clause 497.

Sub-clauses (2) and (3) introduce new provisions based on section 473 (*2*), section 501 (*2*) and other sections of the existing Act, which empower the Chairman to use necessary force in making an entry and provide that no claim for damages, caused by such entry, shall lie against him or any person acting under his orders. It has been considered more convenient to collect all these provisions in one place so as to make them apply generally to all entries which the Executive Officer is empowered to make, except in such cases as are otherwise expressly provided for in the Bill.

Clause 499.

In the existing Act no penalty is provided for obstructing the Chairman in making an entry under the Act. This clause is intended to supply this omission, a penalty being provided in the table in clause 478.

Clauses 500 to 503.

These clauses correspond to sections 597 to 600 of the existing Act, but clause 501 introduces provisions requiring persons on whom a written notice has been served by the Corporation or other municipal officer to submit objections, if any, to the notice within a time now to be specified in the notice (under clause 500) itself.

Clauses 504, 505 and 506.

These clauses respectively correspond to sections 605, 606 and 607 of the existing Act, but allow the Corporation to exercise the powers under these clauses. The provisions of clause 505 have been made applicable also to rules and by-laws in view of the fact that several of the provisions of the existing Act have in the Bill been relegated to by-laws and Schedules. Clause 506 (*2*) makes the owner or occupier liable, but provides for the recovery by the occupier of any sum paid by him as improvement expenses. (*Cf. sections 315 and 612 of the existing Act.*)

Clause 509.

This clause corresponds to section 613 of the existing Act, but it is thought desirable, with a view to simplifying matters, that receivers and other agents or trustees should obtain orders from the Court when in want of funds to fulfil any obligation under the municipal law.

Clause 513.

This clause corresponds to section 617 of the present Act, but the exceptions mentioned in that section have, so far as they are necessary under the provisions of the Bill, been provided for in sub-clause (*2*).

Clause 516.

This clause corresponds to section 620 of the existing Act, but the wording has been altered so as to make it quite general in its application. It is on the lines of section 360 of the Bengal Municipal Act, 1884, and is intended to prescribe a general method of recovery of all moneys due to the Corporation except such as are otherwise expressly provided for in the Bill. Ben. Act III of 1884.

Clauses 518, 519 and 520.

These clauses reproduce sections 623, 624 and 625 of the present Act, respectively. It is proposed, however, to include in these clauses a reference to the Chief Judge of the Court of Small Causes as well, and so render unnecessary the separate provisions contained in section 626 of the existing Act.

Clause 522.

Sub-clauses (2) and (3).—The payment of the salaries, etc., of Municipal Magistrates by the Corporation direct has sometimes been considered objectionable. It is proposed therefore to make provision, by these sub-clauses, for the payment of the Municipal Magistrates' salary and allowances by the Local Government, the Corporation contributing the required amounts to Government. Provision has also been made for the payment of the Municipal Magistrates' establishment.

Clause 525.

Sub-clause 1 (b) is new and is inserted for the purpose of fixing a date from which the prescribed period of limitation is to run in those cases in which it is not easy to determine exactly when an offence was committed, *e.g.*, offences committed within private premises. This provision is taken from section 353 of the Bengal Municipal Act, 1884. Ben. Act III of 1884.

Sub-clause (3).—Under the existing law an offending *bustee* owner frequently escapes prosecution under section 404, 405 or 408 by sending to the Chairman a written notice under section 419, which gives the owner a fresh period of six months, so that the ordinary period of limitation for prosecutions [*i.e.*, three months from the offence as provided by section 631(*1*)] expires in the meanwhile. This new sub-clause is intended to meet such cases, for it prescribes a fresh period of limitation of three months from the expiration of the six months allowed by section 419(*3*) of the present Act, which is reproduced in clause 354 (*3*) of the Bill.

Clause 527.

This clause merely reproduces the provisions of section 452 of the existing Act which, it is thought, finds a more suitable place here.

Clause 529.

Sub-clause (1) (c) is new and is taken from section 156 of the Calcutta Improvement Act, 1911. Ben. Act V of 1911.

Sub-clause (2).—It has sometimes been contended that the "right to sue," as referred to in section 634 (*2*) of the existing Act, does not accrue until after the service of the notice under section 634 (*1*), with the result that limitation is extended. The substitution of the phrase "cause of action" is designed to meet this contention.

CHAPTER XXXVII.

Clauses 531 and 532.

Under sections 640 and 641 of the existing Act, the Local Government have the power to extend the Act, or any portion of it, to Howrah. It is proposed under the Bill to confer on the Government the same powers in respect of other neighbouring municipalities as well.

Clauses 536 to 538.

The position of these clauses in the chapter has been changed in the general revision of the existing Act given effect to in the present Bill but their substance remains unaltered.

Clause 543.

Sub-clause (1).—There are many references in other enactments (*e.g.*, in the Calcutta Improvement Act, 1911), to the Chairman of the Corporation, and it is necessary that those references should be construed as references to the Executive Officer who will take his place. Similarly references to the Municipal Commissioners should be construed as references to the Councillors and Aldermen, and references to the existing Act or to any portion of that Act as references to the proposed new Act or its corresponding portions. Ben. Act V of 1911.

Sub-clause (2) introduces provisions which are necessitated by the proposed abolition of the General Committee, whose powers and functions it is proposed to re-distribute between the Corporation and the Executive Officer. (*See paragraph I of the Statement of Objects and Reasons.*)

Clause 544.

This clause is designed to save the application of prior enactments which are not intended to be affected by the Bill and are not specifically referred to therein. In the absence of such a saving clause it might be contended that the provisions of any prior enactment (*e.g.*, sections 57 and 88 of the Calcutta Improvement Act, 1911, or portions of the Indian Factories Act, 1911), which are inconsistent with, or repugnant to, any of the clauses of the Bill, are repealed or otherwise affected by implication. Ben. Act V of 1911. Act XII of 1911.

SCHEDULE I.

The changes in this schedule have been made at the instance of the Corporation.

SCHEDULE II.

This schedule reproduces Schedule IV of the Bengal Electoral Rules, and contains a list of acts which are deemed to be corrupt practices for the purposes of the proposed Act.

SCHEDULE III.

It is considered desirable that all the constituencies of the Corporation should be included in one list for the purpose of easy reference and for the purposes of election.

SCHEDULE IV.

This schedule gives the particulars which must be mentioned in a return of election expenses. It is based on Schedule III of the Bengal Electoral Rules.

SCHEDULE V.

Rule 1.

It is considered necessary that the table in Schedule II to the existing Act should be made more comprehensive, and with that object in view several new items have been added so as to enable the Corporation to tax trades and professions which under the existing law go free.

Rule 5.

This rule corresponds to rule 5 of the existing Schedule II, but a modification has been made in the wording to make it clear that the license mentioned in the rule is to be taken out in respect of the business carried on in any place of business and not for the place of business itself.

Rule 8.

This rule corresponds to rule 8 of the existing Schedule II, but it now provides that where the business is carried on by the occupier of any place of business he, and not the owner of such place, shall take out the license.

Rule 11.

Sub-rule (2).—This sub-rule makes an alteration in the existing sub-rule (2) as it proposes to require the person who is directed to take out a license under a higher class (as provided therein) to take out such license not for the next following year but for the current year. It further provides for the refund of any sum paid by the person for any lower class license in substitution for which he is required to take out a license under a higher class.

Rule 13.

This rule corresponds to rule 13 of the existing Schedule, but one change has been made. The right to appeal against an order made under proviso (*b*) to section 198 of the existing Act is taken away as it is considered that the making of such an order is of itself a matter of favour.

Rule 14.

This rule reproduces rule 14 of the existing Schedule II, with the addition of a proviso which will give the Corporation a month's time in which to deal with the petition from the date on which a notice of appeal to a Court of Small Causes is given under this rule.

SCHEDULE VI.

Schedule VI corresponds to Schedule III to the existing Act, but the ward boundaries have been considerably modified.

SCHEDULE XI.

This schedule is identical with Schedule XII to the existing Act and calls for no remarks.

SCHEDULE XII.

This schedule is, save for two minor verbal alterations, identical with Schedule XIII to the existing Act.

SCHEDULE XIII.

Rules 1 to 6.

These rules reproduce the provisions of sections 256, 257, 258 (*1*) and 259 to 261, respectively, of the existing Act, with such modifications as it seemed desirable to make the intention clearer. The table prescribing the size of ferrules set out in rule 4 reproduces the table in Schedule XIV to the existing Act, with an additional column prescribing a separate scale of ferrules for unfiltered water.

Rule 7.

This rule amalgamates the provisions of sections 262 and 263 of the existing Act and provides for prompt action by the Corporation if a notice to repair defective fittings is not complied with within 48 hours.

Rule 8.

This rule corresponds to section 264 of the existing Act, but the Corporation take the place of the Engineer to the Corporation as it is proposed to give most of the functions of the present Chairman and other executive officers to the Corporation.

Rule 9.

This rule corresponds to section 274 of the existing Act, but as an error of two *per cent.* is rather a small margin to allow for meters in India, it is proposed to raise the permissible error to four *per cent.* This is provided for in sub-rule (*3*).

Rule 10.

The rule provides that, in calculating the amount to be paid under clause 240, double the rateable reduction should be allowed if a meter indicates more than four *per cent.* in excess of the correct quantity, and likewise prohibits any charge for excess consumption if the meter indicates more than ten *per cent.* in excess. It is also laid down in this rule that any reductions for incorrectness of the meter shall relate only to the quarter in which the occupier applies to have the meter tested under rule 9.

Rules 11, 12 and 13.

These rules reproduce the provisions of sections 275, 276(*1*) and 277 of the existing Act.

SCHEDULE XIV.

Rule 1.

This rule introduces provisions requiring every person who intends to construct or alter a house-drain to submit an application, with plans and specifications, to the Corporation.

Rule 3.

This rule prescribes new measurements for the internal diameter of house-drains.

Rule 6.

This rule reproduces rule 5 of Schedule XV to the existing Act, but allows inlets to a house-drain to be made within the premises from the apparatus of connected-urinals or slop-sinks as well as from that of connected-privies. The reference to "water-closet" has been omitted as the proposed definition of connected-privy will include a water-closet.

Rule 7.

This rule corresponds to rule 6 of Schedule XV to the existing Act, but empowers the Corporation to impose fees for traps fixed in the foot-path or roadway.

Rule 8.

Sub-clause (7).—Here, as in rule 5 and for the same reasons, the reference to "water-closet" has been omitted and references to "connected-urinal" and "slop-sink" have been inserted.

Rules 9 and 10.

These rules reproduce the provisions of rules 8 and 9, respectively, of Schedule XV to the existing Act, but are made applicable to connected-urinals as well as to connected-privies.

Rule 11.

This rule introduces provisions for the suitable trapping of pipes for carrying off waste water in a new building.

Rule 12.

Government are advised that there is no valid reason for requiring, as rule 11 of Schedule XV to the existing Act does, that only Portland cement should be used in jointing house-drains. The proposed modification will permit the use of any other cement, provided it is of the proper standard.

Rule 14.

This rule reproduces section 305 of the existing Act, the provisions of which may now be more suitably included in this schedule.

Rule 15.

This rule introduces provisions which make the owners of two or more premises liable for the maintenance, repair, cleansing, etc., of a house-drain which serves such premises jointly, and empowers the Corporation to serve a requisition on the owners to carry out the work.

Rule 16.

This rule corresponds to section 322 (*1*) of the existing Act, but its application is limited to underground drains which are not municipal drains as it is not considered necessary to include in the Bill similar provisions for municipal drains. The provisions of sub-rule (*2*) are intended to strengthen the hands of the Chief Engineer.

Rule 17.

This rule reproduces the provisions of section 303 of the existing Act, but the rule now makes it clear that its application is limited to those drains only which are not municipal drains. The Corporation may, under clause 255, carry any municipal drain under a building.

Rule 18.

This rule reproduces rule 13 of Schedule XV to the existing Act with the additional requirement that drain-pipes passing underneath a building must be made of iron or of some other similar material.

Rule 19.

This rule introduces provisions requiring persons who intend to construct or alter privies or urinals to submit an application to the Corporation with the necessary plans and specifications.

Rule 20.

This rule empowers the Corporation to refuse to grant permission for the erection of service-privies or urinals which he considers likely to be a nuisance.

Rule 21.

This rule reproduces rule 1 of Schedule XVI to the existing Act, but has been made applicable to service-urinals as well as to service-privies. Sub-rule (*3*) prohibits as a general rule the construction of such privies or urinals in the class of premises mentioned therein.

Rules 22 to 34 and 36 to 38.

These rules reproduce the provisions of rules 2 to 13, and rules 14 to 16, respectively, of Schedule XVI to the existing Act; but in the reproduced rules, whenever it has been considered necessary, provisions which apply to service-privies have been made applicable to service-urinals, and provisions which apply to connected-privies have been made applicable to connected-urinals.

Rule 35.

This rule is based on by-law No. 14 of the existing Municipal Drainage By-laws and provides for a syphon-trap and anti-syphonage pipe for every connected-privy and connected-urinal.

SCHEDULE XV.

This schedule reproduces (with a few minor modifications) the provisions of sections 339, 340 and 344 to 349 of Chapter XXIII of the existing Act, which it is thought, may more suitably be transferred to a separate schedule. It is proposed to vest the executive functions of the General Committee under these sections in the Corporation.

SCHEDULE XVI.

Rule 1.

Clause (*4*) reproduces rule 1 (*4*) of Schedule XVII to the existing Act, with a new provision the effect of which will be that the owner will have to satisfy the Corporation that he will drain the site, when such a course is considered necessary, before the erection of a building.

Rule 2.

Sub-rule (*2*) empowers the Corporation to charge a maximum fee of ten rupees for a certificate granted by him as to the correctness of the plans of a previously existing building on the site of which a new building is to be erected. It is necessary to make a careful survey before such a certificate can be granted, and it is only right that a fee should be levied.

Rule 3.

Proviso (*i*) modifies the provisions of proviso (*i*) to rule 2 of Schedule XVII to the existing Act. This modification has been recommended by a Committee of experts (to whom the revised draft of the schedule was submitted) who were of opinion that the fact that two streets meet should not affect the height of buildings situated in either of them.

Proviso (*ii*) provides for a case which is not dealt with anywhere in the existing Act. It is obviously undesirable that a building at the end of a street should be allowed to be erected to any height irrespective of the width of the street. The effect of this proviso will be to place such a building in the same category as buildings situated at the side of a street.

Sub-rule (*4*) limits the "return-front" of a building to 40 feet which was the former limit. It also makes the very necessary provision that the height on the narrower street shall not exceed the height permissible on the wider street.

Sub-rules (*5*) *and* (*6*), read with rule 3(*3*), make the width of streets in which two-storeyed buildings are permissible 16 feet instead of 12 feet, as under the existing rules. A width of 12 feet is considered inadequate for a two-storeyed building. It is also intended to provide for the setting back of buildings with reference to a centre line in narrow streets. The existing rules permit the zig-zag widening of a street which is of very little value and also allow the owner of a site abutting on a street which has not been built upon to benefit at the expense of the owner of the opposite site who builds first.

Rule 5.

This rule introduces the very necessary and desirable provision that for public safety all buildings of three or more storeys, all public buildings and all buildings of the warehouse class should be provided with sufficient and proper means of escape for use in the event of fire breaking out in such buildings.

Rule 6.

This rule, which prohibits the erection of certain buildings within six feet of a service-privy or service-urinal, is in effect a sanitary regulation and should be read together with the provisions of rule 21(*2*) of Schedule XIV of which it is the converse.

Rule 7.

This rule reproduces the provisions of section 368 of the existing Act. The reference to the area added by the Calcutta Municipal Consolidation Act in sub-section (*4*) of that section has been omitted as being no longer necessary. Ben. Act II of 1888.

Rule 18.

The new definition of "building" includes boundary walls more than eight feet in height. In some cases, however, it is necessary, in order to secure the privacy of a building, to allow boundary walls to be built to a greater height than eight feet. This rule is intended to provide for such a case.

Rule 19.

This rule reproduces the provisions of section 380 of the existing Act.

Rule 20.

This rule corresponds to section 381 of the existing Act, but introduces a new provision based upon the City of Bombay Municipal Act, 1888, which requires that the licensed building surveyor or other competent person employed to supervise the erection of a building shall send a "building completion certificate," in the prescribed form to the Corporation. Bom. Act III of 1888.

Rules 21 and 22.

These rules correspond to sections 382 and 383 of the existing Act, with certain minor modifications.

Rule 23.

This rule corresponds to rule 17 of Schedule XVII to the existing Act, with an alteration in the wording intended to have the effect of preventing the open space within the site of a dwelling-house from being taken as part of the site of another building at any future time.

Rule 24.

This rule corresponds to rule 18 of Schedule XVII to the existing Act, with a new provision prohibiting the erection of a building or part of a building on the two-thirds of a building site which is left vacant under sub-rule (*1*).

Rule 25.

This rule corresponds to rule 20 of Schedule XVII to the existing Act, with modifications intended to provide better ventilation for rooms in domestic buildings by means of doors and windows. Provision is also made for ventilating openings near the ceiling and power is given to the Corporation to relax the rules as to the height and superficial area of such rooms in particular cases.

Rule 29.

This rule corresponds to rule 21 of Schedule XVII to the existing Act, but a new principle is introduced for determining the minimum area of court-yards of dwelling-houses. The proviso to sub-rule (*4*) empowers the Corporation to relax the provisions of the sub-rule in cases in which two-thirds of the site are left vacant, and the phrase "opposite face of the house" has been explained in sub-rule (*5*). Sub-rule (*6*) is taken from the London Building Act and allows some relaxation of the court-yard angle in certain circumstances. 57 & 58 Vict c. ccxiii, s. 45.

Rule 30.

The wording of rule 22 of Schedule XVII to the existing Act has been recast and the rule has been modified so that when there are two or more buildings on one site, back space must be left at the rear of each building. This is obviously necessary, particularly as it frequently happens that such buildings are ultimately separately occupied. The principle adopted in rule 3 (*5*) and (*6*) in respect of the street angle has also been incorporated in rule 30 (*4*).

Rule 32.

Sub-rule (*2*) corresponds to rule 24 (*2*) of Schedule XVII to the existing Act, but a new provision is introduced which requires that the minimum width of the open space at the side of a building shall be increased for every storey after the second. It is also provided that the distance between two adjacent buildings must in every case be at least six feet.

Rules 35 and 36.

These rules introduce provisions intended to ensure that an open space prescribed for a building under the building rules shall permanently remain as such and form part of the site of the building, and shall not include land which is to be acquired by, or made over to, the Corporation or which at any future time is to be taken as part of the site of another building.

Rule 38.

The effect of this new rule will be to prevent the use of a newly-erected building (other than a hut) as a dwelling-house until it is certified to be fit for human habitation.

Rule 42

This rule reproduces the provisions of rule 29B of Schedule XVII to the existing Act, with an alteration in the wording which makes it clear that the open space required by this rule must be an additional open space.

Rule 53.

This rule corresponds to section 369 of the existing Act.

Rule 54.

This rule corresponds to section 370 of the existing Act, with the provisions so modified as to require only one application (coupled with a site-plan) to be sent to the Corporation for the erection of a building, and not, as under the existing law, a separate application for approval of the site.

Rule 55.

This rule amalgamates the provisions of rules 30 and 31 of Schedule XVII to the existing Act in view of the changes in rule 54, as a result of which only one application will henceforward be necessary.

Rule 56.

This rule reproduces the provisions of rule 33 of Schedule XVII to the existing Act, but makes the additional requirement that all plans, etc., submitted under rule 54, should also be signed by the licensed building surveyor who prepares them.

Rule 57.

This rule (which explains itself) introduces new provisions based on section 344A of the City of Bombay Municipal Act, 1888. Bom. Act III of 1888.

Rule 58.

This rule corresponds to rule 34 of Schedule XVII to the existing Act, but the provisions of sub-rule (2) of that rule have not been included as it is not proposed to require, under the Bill, an application for approval of a site.

Rules 59 to 61.

These rules correspond to sections 374, 376 and 377 of the existing Act, respectively, with certain modifications. Rule 59 provides for conditional sanctions to meet cases in which the owner undertakes to carry out some work required by the rules, but cannot do so until such work is actually commenced or completed. By clause (3) of rule 61 power is taken to refuse permission for the erection of a new building in cases in which such building falls within the street alignment or building-line of a street projected under the Calcutta Improvement Act and the permission of the Chairman of the Improvement Trust for the erection of the building has not been obtained [*See also rule 88* (3).] Ben. Act V of 1911.

Rule 63.

This rule reproduces the provisions of section 375 of, and of rule 36 of Schedule XVII to, the existing Act, with certain modifications.

Rules 64 and 65.

These rules reproduce the provisions of sections 372 and 378 of the existing Act, respectively.

Rule 66.

Sub-rule (1) corresponds to section 379 of the existing Act, but it is thought desirable to provide that a permission to erect a building is to be considered to have lapsed unless a substantial portion of the building has been completed within one year from the date on which its erection was sanctioned. Under the existing law an owner sometimes lays the foundation of a building, or part of it, within one year and then abandons the work indefinitely. It is then contended,—perhaps several years later when the conditions have possibly changed materially,—that the sanction has not lapsed; and it is then difficult to ascertain whether the building was actually commenced within a year from the date of sanction or not.

Sub-rule (2) enables an owner within one year from the date on which permission to erect a building was given to obtain a certificate to the effect that a substantial portion of the building has been constructed.

Sub-rule (3) introduces provisions which will cause the permission to erect a masonry building granted before the commencement of the existing Act to lapse if the building has not been completed when the present Bill becomes law. Such a provision seems eminently reasonable seeing that ample time has elapsed since the 1st April, 1900, to allow of the erection of all buildings sanctioned before that date, and the building rules have, moreover, changed materially since then.

Rule 67.

This rule introduces provisions which are much needed, especially in such cases as when an owner misrepresents the boundaries of his land and includes in the site of his proposed building land which belongs to another person.

Rule 68.

This rule corresponds to rule 37 of Schedule XVII to the existing Act, but a new sub-rule has been added empowering the Corporation to prescribe alignments for huts on any vacant land if he is of opinion that huts are likely to be erected on such land. The object of this rule would, to a great extent, be frustrated if alignments could not be prescribed until after the huts are erected.

Rule 76.

This rule introduces provisions which prohibit the placing of a hut used for human habitation within six feet of a cow-house, cattle-shed or stable and is intended to prevent occupiers of a hut from using a part of it as a cow-house, cattle-shed or stable.

Rule 79.

This rule corresponds to rule 46 of Schedule XVII to the existing Act, but prescribes that the floor of a hut must be of some impermeable material. It is thought highly desirable on sanitary grounds to improve the structure of huts in Calcutta.

Rule 80.

This rule reproduces the provisions of rule 46A of the existing Schedule XVII, but further prescribes the minimum opening to be provided by windows in every room in a hut.

Rules 82, 86, 87 and 88.

These rules correspond to sections 384, 386, 388 and 389, respectively, of the existing Act, with certain modifications. The provisions of those sections deal with applications for permission to erect huts, as well as the granting or refusal of such applications, and may conveniently be incorporated in this schedule.

Rule 85.

This rule empowers the Corporation to employ a licensed building surveyor to prepare plans for a hut on behalf of any person who applies to him. This rule, it is hoped, may result in the protection of ignorant and illiterate persons from incompetent or unprincipled plan-makers.

Rules 90 and 91.

These rules respectively reproduce the provisions of sections 385 and 390 of the existing Act which relate to the erection of huts without written permission and the lapse of such permissions.

Rule 93.

This rule is intended to provide against a serious evil which the existing law cannot prevent. Additional storeys may, under the law as it stands at present, be added to existing structures which infringe the building rules, thereby making them more insanitary than before.

SCHEDULE XVII.

Rules 1 to 6.

These rules reproduce the provisions of sections 439 to 443, and section 446, of the existing Act, respectively, with certain minor alterations.

Rule 7.

Sub-rule (1).—The provisions of sub-section (*1*) of section 447 of the existing Act have been somewhat amplified by the inclusion therein of pools, ditches, etc., which the Corporation may require to be treated in the same way as wells, tanks, etc., which have hitherto been dealt with under section 447 (*1*). The Corporation is further empowered to take steps to prevent any such place from becoming a nuisance or a menace to public health. A similar provision (having direct reference to the destruction of breeding-places for mosquitoes) is to be found in section 381 of the City of Bombay Municipal Act, 1888, as amended by Bombay Act VI of 1913.

Bom. Act III of 1888, s. 381, as amended by Bom. Act VI of 1913.

Rule 8.

This rule reproduces the provisions of section 448 of the existing Act with certain minor modifications.

SCHEDULE XVIII.

This schedule is similar in almost all respects to the corresponding schedule to the existing Act. It will be observed, however, that it is proposed to allow cotton which has been pressed into bales to be stored in unlicensed premises and that two or three additions (*e.g.*, grain, steel and tobacco) have been made to the list in clause (*8*) of the schedule.

SCHEDULE XIX.

This schedule is new and is based on the Schedule to the Bengal Food Adulteration Act, 1919 (Bengal Act VI of 1919).

SCHEDULE XX.

This schedule corresponds almost exactly to Schedule XIX to the existing Act. The changes made in the column headings are purely verbal.

SCHEDULE XXI.

This schedule is identical with the corresponding Schedule XX to the existing Act, except that some verbal changes have been made in the column headings.

SCHEDULE XXII.

This schedule almost exactly represents the corresponding Schedule XXI to the existing Act, the changes made being purely formal.

THE CALCUTTA MUNICIPAL BILL, 1921.

Table showing the mode in which the provisions of the Calcutta Municipal Act, 1899 (Ben. Act III of 1899), as modified up to date, are dealt with by the Bill, together with notes explaining omissions, transfers of sections, etc.

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 1 ...	Clause 1.	
" 2 ...	" 2 ...	Section 2 (*1*).—Omitted as being spent.
" 3 ...	" 3 ...	Section 3 (*5*), (*a*) and (*b*).—Omitted so as to make the definition of *bustee* include any plot, whatever its area may be. Section 3 (*6*)—"*bustee land*."—Some confusion has arisen from this definition in assessing the rate in the case of huts which are owned by the owner of the land in a *bustee*, and it is therefore proposed to omit it. [*See note on clause 162 in the "Notes on Clauses."*] Section 3 (*39*)—"*re-erect*."—The definition of "new building" in clause 3 (*43*) will take the place of this definition.
" 4 ...	" 4.	
" 5 ...	.....	Omitted. It is proposed to abolish all existing municipal authorities except the Corporation.
" 6 ...	Clause 5.	
" 7 ...	" 6.	
" 8 ...	.....	Omitted as unnecessary.
" 9 ...	.....	Omitted. It is proposed to abolish the General Committee.
" 10 ...	.....	
" 11 ...	.....	Omitted as unnecessary in view of the proposed appointment of a Chief Executive Officer by the Corporation and the abolition of the existing municipal authorities except the Corporation.
" 12 ...	.....	
" 13 ...	.....	
" 14 ...	Clause 9 ...	Section 14 (*1*).—Omitted as being no longer required in view of the fact that the works mentioned therein have now received their full share of attention, and it is not considered necessary any longer to make it obligatory on the Corporation to devote certain fixed sums of money every year for carrying out the same.
" 15 ...	.....	Omitted as unnecessary.
" 16 ...	.....	
" 17 ...	Clause 10 ...	Section 17 (*2*) and (*3*).—Omitted as in view of the proposed abolition of the General Committee, the procedure has been simplified. [*See clause 10 (2), (3) and (4).*]
" 18 ...	" 11.	
" 19 ...	" 12.	
" 20 ...	" 13.	
" 21 ...	" 14.	
" 22 ...	" 15 ...	Section 23 (*2*) and (*3*).—Omitted as Local Self-Government is now a Provincial subject.
" 23 ...	" 16.	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 24 ...	Clause 17.	
" 25 ...	.....	Omitted as it is proposed to abolish the post of Vice-Chairman.
" 26 ...	.....	Omitted as it is proposed to give power to the Corporation to appoint a Chief Executive Officer and two Deputy Executive Officers.
" 27 ...	.....	
" 28 ...	.....	
" 29 ...	.....	
" 30 ...	.....	
" 31 ...	.....	
" 32 ...	.....	
" 33 ...	.....	
" 34 ...	.....	
" 35 ...	.....	
" 36 ...	.....	Omitted as unnecessary—*see* clause 22.
" 37 ...	Clause 18.	
" 38 ...	" 20.	
" 39 ...	" 19.	
" 40 ...	" 37.	
" 41 ...	.....	Omitted as unnecessary.
" 42 ...	.....	Omitted as provision is made in the proviso to clause 1 (*3*) for the holding of first elections.
" 43 ...	Clause 137 ...	Section 43 (*2*).—Omitted. An alteration of the boundaries of wards is undesirable, as it would affect not only the elections but also the assessment periods for the wards and would, it is thought, give rise to many difficulties. Section 43 (*3*).—Omitted. It is proposed to allocate the seats as in Schedule III. Section 43 (*4*).—Omitted. It is proposed to abolish plural voting.
" 44 ...	" 23 ...	Omitted. It is proposed to give a voter a vote in every ward in respect of which the voter possesses voting qualifications.
" 45 ...	.....	Omitted.
" 46 ...	.....	Omitted as it is proposed to abolish plural voting.
" 47 ...	.....	
" 48 ...	.....	
" 49 ...	.....	
" 50 ...	.....	
" 51 ...	.....	Omitted as unnecessary in view of the definition of "person" in section 3 (*32*) of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
" 52 ...	Clause 26 (*4*).	
" 53 ...	" 41 ...	Section 53 (*3*).—Omitted as unnecessary.

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 54 ...	Clause 27.	
" 55 ...	" 26 (8).	
" 56 ...	.....	Omitted as unnecessary.
" 57 ...	.....	
" 58 ...	.....	
" 59 (1) ...	Clause 33.	
" 59 (2) ...	" 34.	
" 60 ...	" 35.	
" 61 ...	" 38.	
" 62 ...	" 39.	
" 63 ...	" 61 ...	Section 63 (3).—Omitted. [*See remarks against section 9.*]
" 64 ...	.....	Omitted as being included in the proposed clause 61.
" 65 ...	.....	Omitted as the proposed clause 61 (2) renders it unnecessary.
" 66 ...	Clause 63.	
" 67 ...	" 64.	
" 68 ...	.....	Omitted as the proposed clause 61 makes it unnecessary.
" 69 ...	Clause 65.	
" 70 ...	.....	Omitted as unnecessary.
" 71 ...	.....	
" 72 ...	.....	
" 73 ...	Clause 66.	
" 74 ...	.....	Omitted as unnecessary.
" 75 ...	.....	
" 76 ...	Clause 67.	
" 77 ...	" 68.	
" 78 ...	" 71 ...	Section 78 (1).—Omitted as unnecessary in view of the proposed clause 71.
" 79 ...	" 72.	
" 80 ...	.....	Omitted. The proposed clause 62 entitles the Chief Executive Officer to attend at meetings of the Corporation.
" 81 ...	Clause 73.	
" 82 ...	" 74.	
" 83 ...	" 75.	
" 84 ...	" 76.	
" 85 ...	" 77.	
" 86 ...	" 78 ...	Section 86 (2) (c).—Omitted. It is proposed that the Mayor or Deputy Mayor should deal with all contracts and tenders. The proposed clause 78 (2) (c) provides that contracts shall be sanctioned by the Corporation.

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 87 ...	Clause 79.	
" 88 ...	" 80.	
" 89 ...	" 81.	
" 90 ...	.....	Omitted. [*See remarks against section 9.*]
" 91 ...	.....	
" 92 ...	.....	
" 93 ...	.....	
" 94 ...	.....	
" 95 ...	Clause 82 ...	Section 95 (*2*).—Omitted as unnecessary. Section 95 (*3*).—Omitted as unnecessary in view of the provisions of clauses 84, 85 and 86. Section 95 (*5*).—Omitted as unnecessary in view of the proposed abolition of the General Committee.
" 96 ...	" 83 ...	Section 96 (*2*).—Omitted as unnecessary in view of the proposed clause 83 (*1*). Section 96 (*4*).—Omitted as unnecessary.
" 97 ...	" 84 ...	Section 97 (*2*).—Omitted as unnecessary in view of the provisions of the proposed clause 84.
" 98 ...	" 85.	
" 99 ...	" 86.	
" 100 ...	.....	Omitted as it is proposed to abolish the payment of fees to Councillors and Aldermen for attendance at special or Standing Committee meetings.
" 101 ...	.....	Omitted as unnecessary in view of the proposed abolition of the General Committee.
" 102 ...	Clause 87.	
" 103 ...	Clauses 88 and 89 ...	Section 103 (*1*).—Omitted as it is proposed to amalgamate the different Municipal Funds so as to have only one Municipal Fund.
" 104 ...	.....	Omitted. [*See remarks against section 103.*]
" 105 ...	.....	
" 106 ...	.....	
" 107 ...	.....	
" 108 ...	.....	
" 109 ...	.....	
" 110 ...	.....	
" 111 ...	Clause 90.	
" 112 ...	" 91.	
" 113 ...	.....	Omitted as it is proposed to restrict the payment of moneys into the Imperial Bank of India.
" 114 ...	Clause 92.	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 115 ...	Clause 93.	
" 116 ...	" 94.	
" 117 ...	" 95.	
" 118 ...	" 96.	
" 119 ...	" 97 ...	Section 119 (*2*).—Omitted as the proposed clause 97 (*1*) provides that all surplus moneys may be deposited in the Imperial Bank of India or invested in certain securities or debentures.
" 120 ...	" 98 ...	Section 119 (*3*).—Omitted as unnecessary.
" 121 ...	" 99 ...	Section 121 (*2*) (*d*).—Reproduced in clause 99 (*1*) (*b*).
" 122 ...	.....	Omitted as unnecessary in view of the proposed abolition of the General Committee and in view of the provisions of the proposed clauses 98 and 99 which prescribe the procedure for the preparation, consideration and adoption of the Budget Estimate.
" 123 ...	.....	
" 124 ...	.....	
" 125 ...	.....	
" 126 ...	Clause 100.	
" 127 ...	" 101.	
" 128 ...	" 102.	
" 129 ...	" 103.	
" 130 ...	" 104.	
" 131 ...	" 105.	
" 132 ...	" 106.	
" 133 ...	" 107.	
" 134 ...	" 108.	
" 135 ...	" 109.	
" 136 ...	" 110.	
" 137 ...	" 111.	
" 138 ...	" 112.	
" 139 ...	" 113.	
" 140 ...	" 114.	
" 141 ...	" 115.	
" 141A ...	" 116.	
" 141B ...	" 117.	
" 141C ...	" 118.	
" 141D ...	" 119.	
" 141E ...	" 120.	
" 141F ...	" 121.	
" 141G ...	" 122.	
" 141H ...	" 123.	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 142 ...	Clause 124.	
" 143 ...	" 125 ...	Section 143 (3).—Omitted as it has for some time been the practice for the auditor under the Accountant-General, Bengal, to audit the municipal accounts free of charge.
" 144 ...	" 126.	
" 145 ...	.....	Omitted as it is proposed to deliver the auditor's report to the Corporation.
" 146 ...	Clause 127.	
" 147 ...	" 128 ...	Section 147 (a), (b), (c) and (d) and proviso.—Omitted as it is proposed to abolish the different rates and to levy a consolidated rate as is now done in actual practice under section 149 of the existing Act. The proposed clause 128 provides for the levy of such a rate.
" 148 ...	" 129.	
" 149 ...	.....	Omitted. [*See remarks against section 147.*]
" 150 ...	Clause 130.	
" 151 ...	" 131.	
" 152 ...	" 135 ...	Section 152 (2) (a).—Omitted as it is proposed to do away with the Chairman's power under section 154 of the existing Act to divide Calcutta into districts for purposes of valuation. In practice, valuations are always made by wards.
" 153 ...	" 136.	
" 154 ...	" 137.	
" 155 ...	" 138.	
" 156 ...	" 139.	
" 157 ...	" 140.	
" 158 ...	" 141.	
" 159 ...	.....	Omitted as it is proposed to abolish the Chairman's power to make annual valuations of *bustee* land or waste or agricultural land.
" 160 ...	Clause 142 ...	Section 160 (2) (b).—Omitted. [*See remarks against section 159.*]
" 161 ...	" 143.	
" 162 ...	" 144.	
" 163 ...	" 145.	
" 164 ...	" 146.	
" 165 ...	" 147.	
" 166 ...	.....	Omitted. Provisional registration is never resorted to and these sections have proved a dead letter.
" 167 ...	.....	
" 168 ...	Clause 149.	
" 169 ...	" 150.	
" 170 ...	" 151.	
" 171 ...	" 152.	
" 172 ...	" 153.	
" 173 ...	" 154.	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 174 ...	Clause 155.	
" 175 ...	" 156.	
" 176 ...	" 157.	
" 177 ...	" 159.	
" 178 ...	" 160.	
" 179 ...	" 161.	
" 180 ...	" 162.	
" 181 ...	" 163.	
" 182 ...	.....	Omitted in view of the provisions of the proposed clause 162.
" 183 ...	.....	Omitted as unnecessary.
" 184 ...	Clause 164.	
" 185 ...	" 165.	
" 186 ...	" 166.	
" 187 ...	" 167.	
" 188 ...	" 168 ...	Section 188 (*1*) (*a*).—Omitted as in some cases the diameter of the wheels of motor-cars do not exceed 24 inches.
" 189 ...	" 169 ...	Section 188 (*1*) (*f*).—Omitted as the Indian Volunteers Act, 1869, has been repealed.
" 190 ...	.....	Omitted as unnecessary. Hackney-carriages are now under the control of the Commissioner of Police.
" 191 ...	Clause 170.	
" 192 ...	" 171.	
" 193 ...	" 172.	
" 194 ...	" 173.	
" 195 ...	" 174.	
" 196 ...	" 175.	
" 197 ...	.....	Omitted as unnecessary. All the information required is contained in the Demand Registers kept in the municipal office.
" 198 ...	Clause 178.	
" 199 ...	" 179 ...	Section 199 (*1*) (*a*), (*b*) and (*d*).—Omitted as unnecessary in view of the general provisions of the proposed clause 488 (*1*) read with section 3 (*32*) of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899). Section 199 (*2*).—Omitted as unnecessary in view of the general provisions of the proposed clause 488 (*1*).
" 200 ...	" 180.	
" 201 ...	" 181.	
" 202 ...	.....	Omitted. [*See remarks against section 197.*]
" 203 ...	Clause 182.	
" 204 ...	" 183 ...	Section 205 (*1*) (*a*), (*b*) and (*e*).—Omitted as unnecessary in view of the general provisions of the proposed clause 488 (*1*).
" 205 ...	.....	Omitted. [*See remarks against section 197.*]
" 206 ...	Clause 184.	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 207 ...	Clause 185.	
" 208 ...	" 186.	
" 209 ...	" 187 ...	Section 209 (*4*).—Reproduced in clause 188.
" 210 ...	.....	Reproduced in clause 186 (*3*) and (*4*)
" 211 ...	Clause 189.	
" 212 ...	" 190.	
" 213 ...	" 191.	
" 214 ...	" 192.	
" 215 ...	" 193.	
" 216 ...	" 194.	
" 217 ...	" 195.	
" 218 ...	" 196.	
" 219 ...	" 197.	
" 220 ...	" 198.	
" 221 ...	" 199.	
" 222 ...	" 201.	
" 223 ...	" 202.	
" 224 ...	" 203.	
" 225 ...	" 204.	
" 226 ...	" 205.	
" 227 ...	" 206.	
" 228 ...	" 207.	
" 229 ...	" 208.	
" 230 ...	" 209.	
" 231 ...	" 210.	
" 232 ...	" 211.	
" 233 ...	" 212.	
" 234 ...	" 214.	
" 235 ...	" 215.	
" 236 ...	" 216.	
" 237 ...	" 217.	
" 238 ...	" 218.	
" 239 ...	.....	Omitted as unnecessary in view of the proposed clause 218 which embodies the provisions relating to bathing platforms; but the provisions as to the supply of unfiltered water are omitted as it is proposed to supply only filtered water for bathing purposes.
" 240 ...	Clause 219.	
" 241 ...	.....	Omitted as no longer necessary in view of the fact that the former intermittent system of water-supply has now been made constant, though the pressure at night is low.

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 242 ...	Clause 220.	
" 243 ...	" 221.	
" 244 ...	" 222.	
" 245 ...	.....	Reproduced in the proposed clause 222 (*2*).
" 246 ...	Clause 223.	
" 247 ...	" 224	Section 247 (*1*).—Omitted as the substitution of unfiltered water in privies and urinals for flushing purposes is now complete.
" 248 ...	" 225.	
" 249 ...	" 226.	
" 250 ...	" 227.	
" 251 ...	" 228.	
" 252 ...	.....	Omitted as unnecessary.
" 253 ...	Clause 230.	
" 254 ...	" 232.	
" 255 ...	" 233.	
" 256 ...	Schedule XIII, rule 1.	
" 257 ...	" " " 2.	
" 258 ...	" " " 3	Section 258 (*2*).—Omitted as unnecessary.
" 259 ...	" " " 4.	
" 260 ...	" " " 5.	The provision as to the recovery of costs in section 260 (*4*) is omitted in view of the general provisions of the proposed clause 503.
" 261 ...	" " " 6.	
" 262 ...	" " " 7.	
" 263 ...		
" 264 ...	" " " 8.	
" 265 ...	Clause 236.	
" 266 ...	.....	Omitted as being covered by clause 468 (*8*).
" 267 ...	.....	Omitted. [*See remarks against section 241.*] The block-meter system has long been abandoned.
" 268 ...	.....	Omitted. [*See remarks against section 266.*]
" 269 ...	Clause 238 ...	Section 269. *Explanation.*—Omitted as unnecessary.
" 270 ...	" 239 ...	Section 270 (*2*), (*4*) and (*5*).—Omitted. [*See remarks against section 267.*]
" 271 ...	" 240.	
" 272 ...	.....	Omitted. [*See remarks against section 260.*]
" 273 ...	Clause 241.	
" 274 ...	Schedule XIII, rule 9.	
" 275 ...	" " " 11.	
" 276 (*1*) ...	" " " 12.	
" 276 (*2*) ...	Clause 243 (*2*).	
" 277 ...	Schedule XIII, rule 13	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 278 ...	Clause 244.	
,, 279 ...	,, 245.	
,, 280 ...	,, 246.	
,, 281 ...	,, 247.	
,, 282 ...	,, 229 ...	Section 283 (*1*) (*f*).—Omitted in view of the provisions of the proposed rule (7) (*2*) of Schedule XIII to the Bill.
,, 283 ...	,, 248.	
,, 284 ...	,, 249.	
,, 285 ...	,, 250.	
,, 286 ...	,, 251.	
,, 287 ...	,, 252.	
,, 288 ...	,, 253.	
,, 289 ...	,, 254.	
,, 290 ...	,, 255 ...	Section 290 (*2*).—The power of entry given to the Chairman by this sub-section is omitted as unnecessary in view of the provisions of clause 497.
,, 291 ...	.....	Omitted as being reproduced in the proposed clause 255.
,, 292 ...	Clause 256.	
,, 293 ...	,, 257.	
,, 294 ...	,, 258.	
,, 295 ...	,, 259.	
,, 296 ...	,, 260.	
,, 297 ...	,, 261.	
,, 298 ...	,, 262.	
,, 299 ...	,, 263.	
,, 300 ...	,, 264.	
,, 301 ...	,, 265 ...	Section 301 (*3*).—Omitted as being reproduced in the proposed clause 266 (*2*).
,, 302 ...	,, 266 (*1*).	
,, 303 ...	Schedule XIV, rule 17.	
,, 304 ...	.....	Omitted as being reproduced in the proposed clause 281.
,, 305 ...	Schedule XIV, rule 14.	
,, 306 ...	Clause 267.	
,, 307 ...	,, 268 ...	Section 307 (*3*).—Omitted as unnecessary in view of the general provisions of clauses 288 and 500.
,, 308 ...	,, 269.	
,, 309 ...	,, 270.	
,, 310 ...	,, 271 ...	Section 310 (*1*).—The provision for fees for licenses has been omitted as being covered by the general provisions of clause 488 (*2*). Section 310 (*2*).—Omitted as unnecessary in view of the general provisions of the proposed clause 514.
,, 311 ...	,, 272.	
,, 312 ...	,, 273.	
,, 313 ...	,, 274.	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 314 ...	Clause 275.	
" 315 ...	.....	Omitted as being covered by the provisions of the proposed clause 287.
" 316 ...	Clause 276.	
" 317 ...	" 277.	
" 318 ...	" 278.	
" 319 ...	" 279.	
" 320 ...	" 280.	
" 321 ...	" 283.	
" 322 ...	Schedule XIV, rule 16 (*1*).	
" 323 ...	Clause 284.	
" 324 ...	" 285.	
" 325 ...	.....	Omitted as its provisions are covered by the proposed clauses 281 and 282.
" 326 ...	Clause 289.	
" 327 ...	.....	Section 327 (*1*).—Omitted as unnecessary. Section 327 (*2*).—Omitted. [*See remarks against section 9.*]
" 328 ...	.....	Section 328 (*1*) and (*2*).—Omitted as being reproduced in the proposed clause 286. Section 328 (*3*).—Omitted as being covered by the general provisions of clause 500 (*2*).
" 329 ...	Clause 290.	
" 330 ...	" 291.	
" 331 ...	" 292.	
" 332 ...	" 293.	
" 333 ...	" 294 ...	Section 333 (*2*).—Omitted as being superfluous.
" 334 ...	" 295.	
" 335 ...	" 296.	
" 336 ...	" 297 (*1*).	
" 337 ...	" 298.	
" 338 ...	" 299 ...	Section 338 (*2*).—Omitted in view of the fact that in practice it has never been found necessary to resort to these provisions. It is, moreover, proposed to abolish the General Committee.
" 339 ...	Schedule XV, rule 1.	
" 340 ...	" " " 2.	
" 341 ...	Clause 301.	
" 342 ...	" 302.	
" 343 ...	.....	Omitted as being covered by the provisions of the proposed rules 4 and 7 of Schedule XVII to the Bill.
" 344 ...	Schedule XV, rule 3.	
" 345 ...	" " 4.	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 346 ...	Schedule XV, rule 5.	
" 347 ...	" " " 6.	
" 348 ...	.....	Omitted as being covered by the provisions of the proposed clause 297 (2) and the proposed rule 7 of Schedule XV to the Bill.
" 349 ...	Schedule XV, rule 8	Section 349 (3).—Omitted as it is now the practice for the Corporation to maintain and replace numbers affixed to premises.
" 350 ...	Clause 303.	
" 351 ...	" 304.	
" 352 ...	" 305.	
" 353 ...	" 306.	
" 354 ...	" 307.	
" 355 ...	" 308.	
" 356 ...	" 309 ...	Section 356 (3).—Omitted as now unnecessary in view of the establishment of the Calcutta Improvement Trust. Section 356 (4).—Omitted as, in the case of projected public streets, it is proposed that the Corporation should acquire in the ordinary way and not take possession, as provided in this sub-section, of all land which they may find it necessary to take.
" 357 ...	" 311 ...	Section 357 (2) proviso and section 357 (3), (4), (5) and (6). —Omitted as being covered by the provisions of the proposed clauses 312, 313 and 314.
" 358 ...	" 315.	
" 359 ...	" 316.	
" 360 ...	" 317.	
" 361 ...	" 318.	
" 362 ...	" 319.	
" 363 ...	" 320.	
" 364 ...	.....	Omitted as these sections have never been worked. It is proposed to deal with the question of the development of building sites in a separate Bill. [*See para. VIII of the Statement of Objects and Reasons.*]
" 365 ...	.....	
" 366 ...	.....	
" 367 ..	Clause 325 ...	Section 367 (1) (i).—Omitted as the erection of continuous buildings is dealt with in the rules in Schedule XV to the Bill.
" 368 ...	Schedule XVI, rule 7.	
" 369 ...	" XVI, rule 53.	
" 370 ...	" XVI, rule 54.	
" 371 ...	.....	Omitted as unnecessary in view of the provisions of the proposed rule 54 of Schedule XVI to the Bill.
" 372 ...	Schedule XVI, rule 64.	
" 373 ...	.....	Omitted in view of the provisions of the proposed rules 54 and 59 of Schedule XVI to the Bill.
" 374 ...	Schedule XVI, rule 59.	Section 374, provisos.—Omitted as unnecessary.

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 375 ...	.....	Omitted in view of the provisions of the proposed rule 63 of Schedule XVI to the Bill.
" 376 ...	.....	Omitted in view of the provisions of the proposed rule 60 of Schedule XVI to the Bill.
" 377 ...	Schedule XVI, rule 61.	
" 378 ...	" XVI, rule 65.	
" 379 ...	" XVI. rule 66 (*1*).	
" 380 ...	" XVI, rule 19.	
" 381 ...	" XVI, rule 20.	
" 382 ...	" XVI, rule 21.	
" 383 ...	" XVI, rule 22.	Section 383 (*4*).– Omitted as unnecessary.
" 384 ...	" XVI, rule 82.	
" 385 ...	" XVI, rule 90.	
" 386 ...	" XVI, rule 86.	Section 386 proviso.—Omitted as unnecessary.
" 387 ...	.....	Omitted in view of the provisions of the proposed rule 89 of Schedule XVI to the Bill.
" 388 ...	.....	Omitted in view of the provisions of the proposed rule 87 of Schedule XVI to the Bill.
" 389 ...	Schedule XVI, rule 88.	
" 390 ...	" XVI, rule 91.	
" 391 ...	Clause 329 ...	Section 391 (*1*).—Omitted as unnecessary. Section 391 (*2*), provisos (*a*), (*b*) and (*c*).—Omitted in view of the provisions of the proposed clause 329. Section 391 (*3*).—Omitted. [*See remarks above.*]
" 392 ...	.....	Omitted in view of the provisions of the proposed clauses 304 and 310.
" 393 ...	Clause 330.	
" 394 ...	" 461.	
" 395 ...	" 462.	
" 396 ...	" 463.	
" 397 ...	" 464.	
" 398 ...	" 331.	
" 399 ...	" 332.	
" 400 ...	" 333.	
" 401 ...	" 334.	
" 402 ...	" 335.	
" 403 ...	" 336.	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 404 ...	Clause 337.	
" 405 ...	" 338.	
" 406 ...	" 339.	
" 407 ...	" 340.	
" 408 ...	" 341.	
" 409 ...	" 342 ...	Section 409 (*1*).—Omitted, as, in view of the proposed abolition of the General Committee, all requisitions by notice will, in default, be carried out by the Executive Officer as provided in clause 500.
" 410 ...	" 343.	
" 411 ...	" 344.	
" 412 ...	" 345.	
" 413 ...	" 346.	
" 414 ...	" 347.	
" 415 ...	" 348.	
" 416 ...	" 349.	
" 417 ...	" 352.	
" 418 ...	" 353.	
" 419 ...	" 354.	
" 420 ...	" 358 ...	Section 420 (*2*).—Omitted as being covered by the general provisions of clause 516.
" 421 ...	" 359.	
" 422 ...	" 363.	
" 423 ...	.....	Omitted in view of the proposed relegation of the provisions of these sections to by-laws. [*See clause 468* (*27*).]
" 424 ...	.....	
" 425 ...	.....	
" 426 ...	.....	
" 427 ...	Clause 364.	
" 428 ...	.....	Omitted as unnecessary.
" 429 ...	Clause 365 (*1*) and (*2*).	
" 430 ...	" 366 ...	Section 430 (*5*).—Omitted as unnecessary.
" 431 ...	" 367.	
" 432 ...	.....	Omitted in view of the proposed relegation of the provisions of this section to by-laws. [*See clause 468* (*28*).]
" 433 ...	Clause 365 (*3*).	
" 434 ...	.....	Omitted. [*See remarks against section 432.*]
" 435 ...	Clause 368.	
" 436 ...	.....	Omitted. [*See remarks against section 432.*]
" 437 ...	Clause 369.	
" 438 ...	" 370.	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 439 ...	Schedule XVII, rule 1.	
" 440 ...	" " " 2.	
" 441 ...	" " " 3.	
" 442 ...	" " " 4.	
" 443 ...	" " " 5	Section 443 (*2*).—Omitted in view of the provisions of the proposed clause 516.
" 444 ...	Clause 375 (*1*) and (*3*).	
" 445 ...	" 378.	
" 446 ...	Schedule XVII, rule 6.	
" 447 ...	" " " 7	Section 447 (*4*).—Omitted as unnecessary.
" 448 ...	" " " 8	Section 448 (*5*).—Omitted as unnecessary in view of the provisions of the proposed rule 7 of Schedule XVII to the Bill.
" 449 ...	Clause 360.	
" 450 ...	" 361.	
" 451 ...	" 362.	
" 452 ...	" 527.	
" 453 ...	.....	Omitted in view of the proposed relegation of the provisions of these sections to by-laws. [*See clause 468 (32), (33) and (34).*]
" 454 ...	.....	
" 455 ...	.....	
" 456 ...	.....	
" 457 ...	.....	
" 458 ...	.....	
" 459 ...	Clause 371.	
" 460 ...	.....	Omitted in view of the proposed relegation of the provisions of these sections to by-laws. [*See clause 468 (29) and (31).*]
" 461 ...	.....	
" 462 ...	.....	
" 463 ...	Clause 379.	
" 464 ...	.....	Section 464 (*1*).—Omitted in view of the provisions of the proposed clause 468 (*40*). Section 464 (*2*).—Omitted in view of the provisions of clause 469 (*2*).
" 465 ...	.....	Omitted in view of the proposed relegation of its provisions to by-laws. [*See clause 468 (40).*]
" 466 ...	Clause 380 (*1*), (*2*) and (*4*).	Section 466 (*2*).—Omitted in view of the provisions of clause 468 (*40*).
" 467 ...	" 380 (*3*).	
" 468 ...	.....	Omitted in view of the abolition of the General Committee.
" 469 ...	Clause 381.	
" 470 ...	" 382.	
" 471 ...	" 383.	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 472 ...	Clause 384.	
„ 473 ...	.....	Omitted in view of the proposed relegation of the provisions of these sections to by-laws. [*See clause 468 (29), (30) and (40).*] Section 473 (*2*).—Omitted, as being covered by the general provisions of the proposed clause 497 (*3*).
„ 474 ...	.....	
„ 475 ...	.....	
„ 476 ...	.....	
„ 477 ...	Clause 387.	
„ 478 ...	„ 388.	
„ 479 ...	„ 389.	
„ 480 ...	„ 390.	
„ 481 ...	„ 391 ...	Section 481 (*1*), proviso (*iv*).—Omitted as it is proposed to do away with this exception in favour of markets registered under the Calcutta Markets Act, 1871, which was repealed so long ago as 1876 by Ben. Act IV of 1876.
„ 482 ...	.....	Omitted as unnecessary in that it is covered by the proposed clause 391 (*1*) (*a*).
„ 483 ...	Clause 392.	
„ 484 ...	„ 393.	
„ 485 ...	„ 394 ...	Section 485 (*2*).—Omitted as unnecessary in view of the abolition of the General Committee.
„ 486 ...	Clause 395.	
„ 487 ...	.....	Omitted as being reproduced in the proposed clause 395.
„ 488 ...	.....	Omitted as being covered by the provisions of the proposed clause 468 (*43*) to (*51*).
„ 489 ...	Clause 396.	
„ 490 ...	.....	Omitted as being covered by the provisions of the proposed clause 516.
„ 491 ...	.....	Omitted as being covered by the proposed provisions of clause 468 (*44*).
„ 492 ...	Clause 397.	
„ 493 ...	„ 399.	
„ 494 ...	.....	Omitted as being reproduced in the proposed clause 399 (*1*).
„ 495 ...	Clause 400.	
„ 496 ...	„ 404.	
„ 497 ...	„ 405 ...	Section 497 (*2*).—Omitted as unnecessary. Section 497 (*3*).—Omitted as unnecessary.
„ 498 ...	„ 406.	
„ 499 ...	„ 407.	
„ 500 ...	„ 408.	
„ 501 ...	„ 409 ...	Section 501(*2*).—Omitted as unnecessary in that it is covered by the general provisions of the proposed clause 497(*3*).
„ 502 ...	„ 410.	
„ 503 ...	„ 411.	
„ 504 ...	„ 412.	
„ 505 ...	„ 413.	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 506 ...	.....	Omitted as unnecessary and as tending to militate against the operation of the clauses 411, 412 and 413.
" 507 ...	Clause 416.	
" 508 ...	" 418.	
" 509 ...	.....	Omitted as it is proposed to do away with Chapter XXXVI, comprising sections 509 to 512, altogether. Its provisions are considered unsuitable and have proved to be a dead letter. Section 55 of the Calcutta Police Act, 1866 (Ben. Act IV of 1866), provides for the keeping of standard weights and measures. Clause 387 (*1*) (*b*) of the Bill empowers the Corporation to provide and maintain correct weights, etc., in Municipal markets, and clause 468 (*49*) authorizes the Corporation to make by-laws preventing the use of false or defective weights, etc., in such markets.
" 510 ...	.....	
" 511 ...	.....	
" 512 ...	.....	
" 513 ...	Clause 428 ...	Section 513 (*2*).—Omitted as unnecessary in that the proposed clause 428 provides that information as to a dangerous disease shall be given to the Health Officer in the manner prescribed by him.
" 514 ...	" 429.	
" 515 ...	" 430.	
" 516 ...	" 431.	
" 517 ...	" 432.	
" 518 ...	" 433 ...	Section 518 (*2*) proviso.—Omitted as unnecessary.
" 519 ...	" 434.	
" 520 ...	" 435.	
" 521 ...	" 436.	
" 522 ...	" 437.	
" 523 ...	" 438.	
" 524 ...	" 439.	
" 525 ...	" 440.	
" 526 ...	" 441.	
" 527 ...	.....	Omitted in view of the relegation of its provisions to by-laws. [*See clause 468 (53).*]
" 528 ...	Clause 441 (*5*).	
" 529 ...	" 442 ...	Section 529 (*2*)—Omitted. [*See remarks against section 527.*]
" 530 ...	" 443 ...	Section 530 (*2*).—Omitted. [*See remarks against section 527.*]
" 531 ...	" 444.	
" 532 ...	" 445.	
" 533 ...	" 446.	
" 534 ...	" 447.	
" 535 ...	.....	Omitted. [*See remarks against section 527.*]
" 536 ...	Clause 448.	
" 537 ...	.....	Omitted. [*See remarks against section 527.*]

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 538 ...	Clause 449.	
" 539 ...	" 450.	
" 540 ...	" 451.	
" 541 ...	" 452 ...	Section 541 (*2*).—Omitted as unnecessary.
" 542 ...	" 453.	
" 543 ...	" 454.	
" 544 ...	.....	Omitted. [*See remarks against section 527.*]
" 545 ...	Clause 455.	
" 546 ...	" 456.	
" 547 ...	" 457.	
" 548 ...	" 458.	
" 549 ...	.....	Omitted in view of the provisions of the proposed clause 468 (*61*).
" 550 ...	Clause 459 ...	Section 550 (*3*).—Omitted. [*See remarks against section 549.*]
" 551 ...	" 460.	
" 552 ...	.....	
" 553 ...	.....	Omitted. [*See remarks against section 549.*]
" 554 ...	Clause 372.	
" 555 ...	" 373.	
" 556 ...	" 465.	
" 557 ...	" 466 ...	Section 557 (*a*).—Omitted as it is proposed, in order to avoid all possible suggestion of prejudice, to relieve the Executive Officer of the duties of a "Collector" under the Land Acquisition Act, 1894. Section 557 (*d*) proviso.—This proviso is spent and no longer required. Section 557 (*e*).—Omitted as it is proposed to allow owners of tanneries, *surki* mills and other offensive trades to have in future the benefit of clauses *fourthly* and *fifthly* of section 23 (*1*) of the Land Acquisition Act, 1894 (Act I of 1894).
" 558 ...	Clause 467.	
" 559 ...	" 468 ...	Section 559 (*1*).—Omitted as unnecessary in that clause 82 (*9*) empowers the Corporation to make rules for regulating the conduct of business at meetings of Standing Committees which, it is proposed, shall take the place of Sub-Committees. Section 559 (*2*).—Omitted as it is considered unnecessary to provide for the fixing of any rates of fees other than those prescribed in Schedule VIII, Part I]. [*See note on Clause 182 in the "Notes on Clauses."*]
" 560 ...	" 469.	
" 561 ...	" 470.	
" 562 ...	.....	Omitted as being spent and no longer required.
" 563 ...	.....	Omitted as clause 468 empowers the Corporation to make by-laws in the place of the General Committee which it is proposed to abolish.
" 564 ...	.....	Omitted as unnecessary in view of the provision of section 22 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
" 565 ...	Clause 471.	
" 566 ...	" 472.	
" 567 ...	" 473.	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 568 ...	Clause 474.	
" 569 ...	" 475.	
" 570 ...	" 476.	
" 571 ...	.....	Omitted in view of the proposed relegation of the provisions of these sections to by-laws. [*See clause 468 (63).*]
" 572 ...	.....	
" 573 ...	Clause 477.	
" 574 ...	" 478.	
" 575 ...	.....	Omitted as it is covered by clause 478, which amalgamates the provisions of sections 574 and 575.
" 576 ...	Clause 480.	
" 577 ...	" 481.	
" 578 ...	" 482.	
" 579 ...	" 483.	
" 580 ...	.....	Omitted as being covered by the provisions of the proposed clause 478 (Table)
" 581 ...	.....	
" 582 ...	Clause 484.	
" 583 ...	" 485.	
" 584 ...	" 486.	
" 585 ...	" 487.	
" 586 ...	" 488.	
" 587 ...	" 489.	
" 588 ...	" 490.	
" 589 ...	" 491.	
" 590 ...	" 492.	
" 591 ...	" 493.	
" 592 ...	" 495.	
" 593 ...	" 494.	
" 594 ...	" 496.	
" 595 ...	" 497.	
" 596 ...	" 498.	
" 597 ...	" 500.	
" 598 ...	" 501.	
" 599 ...	" 502.	
" 600 ...	" 503.	
" 601 ...	.....	Omitted as these sections are seldom, if ever, resorted to in practice.
" 602 ...	.....	
" 603 ...	.....	
" 604 ...	.....	
" 605 ...	Clause 504.	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 606 ...	Clause 505.	
„ 607 ...	„ 506.	
„ 608 ...	.....	Omitted. [*See remarks against sections 601 to 604.*]
„ 609 ...	Clause 507.	
„ 610 ...	.....	Omitted as being covered by the general provisions of the proposed clause 516.
„ 611 ...	Clause 508.	
„ 612 ...	.....	Omitted as unnecessary. Its provisions are difficult to apply and are never resorted to in practice.
„ 613 ...	Clause 509 ...	Section 613 (*2*).—Omitted as unnecessary as the "Agent" or "Trustee" has now to obtain the permission of the Court to raise funds, etc.
„ 614 ...	„ 510.	
„ 615 ...	„ 511.	
„ 616 ...	„ 512.	
„ 617 ...	„ 513.	
„ 618 ...	„ 514.	
„ 619 ...	„ 515.	
„ 620 ...	„ 516.	
„ 621 ...	.....	Omitted as unnecessary.
„ 622 ...	Clause 517.	
„ 623 ...	„ 518.	
„ 624 ...	„ 519.	
„ 625 ...	„ 520.	
„ 626 ...	.....	Omitted as the provisions of the section have been incorporated in clauses 518 to 520.
„ 627 ...	Clause 521.	
„ 628 ...	„ 522.	
„ 629 ...	„ 523.	
„ 630 ...	„ 524.	
„ 631 ...	„ 525.	
„ 632 ...	„ 526 ...	Section 632 (*3*).—Omitted as unnecessary. Section 632 (*4*).—Omitted as unnecessary in view of the provisions of section 27 of the Bengal General Clauses Act, 1899 (Ben. Act I of 1899).
„ 633 ...	Clause 528.	
„ 634 ...	„ 529.	
„ 635 ...	„ 530.	
„ 636 ...	.....	Omitted in view of the decision not to include any adjoining area within Calcutta as defined in Schedule I.
„ 637 ...	.....	
„ 638 ...	.....	
„ 639 ...	.....	
„ 640 ...	Clause 531.	
„ 641 ...	„ 532.	

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Section 642 ...	Clause 533.	
" 643 ...	" 534.	
" 644 ...	" 535.	
" 645 ...	" 539.	
" 646 ...	" 540.	
" 647 ...	" 541.	
" 648 ...	" 542.	
" 649 ...	" 536.	
" 650 ...	" 537.	
" 651 ...	" 538.	
" 652 ...	.....	Omitted as being covered by the provisions of the proposed clause 478 (Table).
Schedule I ...	Schedule I.	
" II, rule 1 ...	" V, rule 1.	
" " " 2 ...	" " " 2.	
" " " 3 ...	" " " 3.	
" " " 4 ...	" " " 4.	
" " " 5 ...	" " " 5.	
" " " 6 ...	" " " 6.	
" " " 7 ...	" " " 7.	
" " " 8 ...	" " " 8.	
" " " 9 ...	" " " 9.	
" " " 10 ...	" " " 10.	
" " " 11 ...	" " " 11.	
" " " 12 ...	" " " 12.	
" " " 13 ...	" " " 13.	
" " " 14 ...	" " " 14.	
" " " 15 ...	" " " 15.	
" " " 16 ...	" " " 16.	
" III ...	" VI.	
" IV ...	.....	Omitted as unnecessary in view of the rule making power in clause 22.
" V ...	.....	Omitted as unnecessary in view of the rule making power in clause 27.

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Schedule VI* ...		
" VII ...	.....	Omitted as no similar Schedule is required in the Bill, since clause 135 (*1*) provides that valuations made under Ben. Act III of 1899 shall continue in force for the remainder of the period for which such valuations were made.
" VIII ...	Schedule VII ...	Schedule VIII, sixth and seventh items.—Omitted as it is proposed to abolish the tax on bicycles and tricycles in view of the proposed tax to be imposed on motor-cycles in Schedule VII to the Bill.
" IX ...	" VIII.	
" X ...	" IX.	
" XI ...	" X.	
" XII ...	" XI.	
" XIII ...	" XII.	
" XIV ...	" XIII, rule 4.	
" XV, rule 1	" XIV " 2.	
" " " 2	" " " 3.	
" " " 3	" " " 4.	
" " " 4	" " " 5.	
" " " 5	" " " 6.	
" " " 6	" " " 7.	
" " " 7	" " " 8.	
" " " 8	" " " 9.	
" " " 9	" " " 10.	
" " " 10	" " " 11.	
" " " 11	" " " 12.	
" " " 12	" " " 13.	
" " " 13	" " " 18.	
" XVI, " 1	" " " 21.	
" " " 2	" " " 22.	
" " " 3	" " " 23.	
" " " 4	" " " 24.	
" " " 5	" " " 25.	
" " " 6	" " " 26.	
" " " 7	" " " 27.	
" " " 8	" " " 28.	
" " " 9	" " " 29.	
" " " 10	" " " 30.	
" " " 11	" " " 31.	
" " " 12	" " " 32.	
" " " 12A	" " " 33.	

* Schedule VI to Bengal Act III of 1899 was repealed by the Calcutta Municipal (Loans) Act, 1914 (Ben. Act IV of 1914), Section 3.

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Schedule XVI, rule 13	Schedule XIV, rule 34.	
" " " 14	" " " 36.	
" " " 15	" " " 37.	
" " " 16	" " " 38.	
" " " 17	.....	Omitted as considered unnecessary in view of the extended powers proposed to be given under Chapter XVIII of, and Schedule XIV to, the Bill.
" XVII " 1	Schedule XVI, rule 1.	
" " " 1A	" " " 2.	
" " " 2	" " " 3.	
" " " 3	" " " 4.	
" " " 4	.....	Omitted as being covered by the general provisions of the proposed clause 256 (*1*) (*b*).
" " " 5	.....	Omitted as unnecessary in view of the proposed clause 326 (*1*) (*b*).
" " " 6*	.....	
" " " 7	Schedule XVI, rule 8.	
" " " 8	" " " 9.	
" " " 9	" " " 10.	
" " " 10	" " " 11.	
" " " 11	" " " 12.	
" " " 12	" " " 13.	
" " " 13	" " " 14	Schedule XVII, rule 13 (*2*).—Omitted as it is considered desirable that old, insanitary one-storeyed buildings should be demolished and should not be allowed to be converted into two-storeyed buildings.
" " " 14	" " " 15.	
" " " 15	" " " 16.	
" " " 16	" " " 17.	
" " " 16A	.....	Omitted as being covered by the provisions of the proposed clause 357.
" " " 17	Schedule XVI, rule 23.	
" " " 18	" " " 24.	
" " " 19†	.....	
" " " 20	Schedule XVI, rule 25.	
" " " 20A	" " " 26.	
" " " 20B	" " " 27.	
" " " 20C	" " " 28.	
" " " 21	" " " 29.	
" " " 22	" " " 30.	
" " " 23	" " " 31.	
" " " 24	" " " 32.	
" " " 25	" " " 33.	

* Schedule XVII, rule 6, was cancelled by Notification No. 543-M., dated the 5th March, 1910.

† Schedule XVII, rule 19, was cancelled by Notification No. 543M., dated the 5th March, 1910.

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Schedule XVII, rule 25A	Schedule XVI, rule 34.	
" " " 26	" " " 37.	
" " " 27*	.....	
" " " 28	Schedule XVI, rule 39.	
" " " 29	" " " 40.	
" " " 29A	" " " 41.	
" " " 29B	" " " 42	
" " " 29C	" " " 43.	
" " " 29D	" " " 44.	
" " " 29E	" " " 45.	
" " " 29F	" " " 46.	
" " " 29G	" " " 47.	
" " " 29H	" " " 48.	
" " " 29J	" " " 49.	
" " " 29K	" " " 50.	
" " " 29L	" " " 51.	
" " " 29M	" " " 52.	
" " " 30	" " " 55.	
" " " 31	.....	Omitted as being covered by the provisions of the proposed rule 55 of Schedule XVI to the Bill.
" " " 32	.....	Omitted as unnecessary in view of the provisions of rule 54 (*1*) of Schedule XVI to the Bill, under which only one application is necessary.
" " " 33	Schedule XVI, rule 56.	Schedule XVII, rule 33 (*2*).—Omitted as unnecessary.
" " " 34	" " " 58.	Schedule XVII, rule 34 (*2*).—Omitted. [*See remarks against Schedule XVII, rule 32.*]
" " " 35	" " " 62.	
" " " 36	" " " 63.	
" " " 37	" " " 68.	
" " " 37A	.....	Omitted as being covered by the provisions of the proposed clause 355.
" " " 38	Schedule XVI, rule 69.	
" " " 39	" " " 70.	
" " " 40	" " " 71.	
" " " 40A	" " " 72.	
" " " 41	" " " 73.	
" " " 42	" " " 74.	
" " " 43	" " " 75.	
" " " 44	" " " 77.	
" " " 45	" " " 78.	
" " " 46	" " " 79.	
" " " 46A	" " " 80.	

* Schedule XVII, rule 27, was cancelled by Notification No. 164 T.—M., dated the 30th April, 1910.

1	2	3
Ben. Act III of 1899.	Bill.	REMARKS.
Schedule XVII, rule 46B	Schedule XVI, rule 81.	
" " " 47	" " " 83.	
" " " 48	" " " 84.	
" " " 49	" " " 89.	
" " " 50	" " " 92.	
" " " 51*	.....	
" " " 52	Schedule XVI, rule 94.	
" " " 53	" " " 95.	
Schedule XVIII ...	Schedule XVIII.	
" XIX ...	" XX.	
" XX ...	" XXI.	
" XXI ...	" XXII.	

* Schedule XVII, rule 51, was cancelled by Notification No. 164T.—M., dated the 30th April, 1910.

C. TINDALL,

Secretary to the Government of Bengal and
Secretary to the Bengal Legislative Council.

The Calcutta Gazette

WEDNESDAY, DECEMBER 14, 1921.

PART IV.

Bills introduced in the Bengal Legislative Council, Reports of Select Committees presented or to be presented in that Council, and Bills published before introduction in that Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

No. 3645L.—The 9th December, 1921.—His Excellency the Governor having been pleased to order, under rule 18 of the Bengal Legislative Council Rules, 1920, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Calcutta Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information.

It is proposed to introduce the Bill at the session of the Bengal Legislative Council commencing on Monday, the 19th December, 1921, and at the same session to move that it be referred to a Select Committee.

C. TINDALL,

Secretary to the Government of Bengal and Secretary to the Bengal Legislative Council.

THE BENGAL ENTERTAINMENTS TAX BILL, 1921.

A

BILL

to make an addition to the public revenue of Bengal and for that purpose to impose a tax on entertainments and other amusements.

Preamble.

WHEREAS it is necessary to make an addition to the public revenue of Bengal and for that purpose to impose a tax on entertainments and other amusements;

It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bengal Entertainments Tax Act, 1921.

(*2*) It extends to the whole of Bengal.

(*3*) It shall come into force at once in—

(*a*) Calcutta, as defined in clause (*7*) of section 3 of the Calcutta Municipal Act, 1899; Ben. Act III of 1899.

(*b*) (*i*) Fort William, excepting the portion thereof included within the ramparts of the Fort,

(*ii*) the Esplanade, and

(*iii*) that part of Hastings north of the south edge of Clyde Row and Strand Road to the river bank; and

(*c*) the Municipalities of Howrah, Cossipore-Chitpur, Maniktola, Garden Reach, Tollygunge, Dacca and Darjeeling, the Barrackpore Cantonment and the South Suburban Municipality.

(*4*) The Local Government may, by notification in the *Calcutta Gazette*, bring this Act or any portion thereof into force in such other areas in Bengal at such time as shall be specified in such notification:

Provided that no notification under this sub-section shall be published in respect of any area included in a military cantonment without the previous sanction of the Governor General in Council.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,— [*Cf.* 6, Geo. V, c. 11, and s. 1(*6*) and 11, Geo. V, c. 32, s. 7(*2*).]

(*1*) "admission" means admission as a spectator or as one of an audience;

(*2*) "admission to an entertainment" includes admission to any place in which the entertainment is held;

(*3*) "agriculture" includes horticulture and livestock breeding;

(4) "entertainment" includes any exhibition, performance, amusement, game or sport to which persons are admitted for payment;

(5) "live-stock" includes animals of every description;

(6) "notification" means a notification published in the *Calcutta Gazette*;

(7) "payment on admission" includes any payment made by a person who having been admitted to one part of a place of entertainment is subsequently admitted to another part thereof, for admission to which a payment involving a tax or a higher rate of tax is required;

(8) "proprietor" in relation to any entertainment includes any person responsible for the management thereof; and

(9) "society" includes a company, institution, club or other association of persons by whatever name called.

Duty on payments for admission to entertainments.

3. There shall, as from the first day of April, 1922, be charged, levied and paid on all payments for admission to any entertainment a tax, hereinafter referred to as the entertainments tax, at the following rates, namely:— [*Cf.* 6, Geo. V, c. 11, s. 1 (*1*).]

Where the payment, excluding the amount of the tax,—

(*a*) does not exceed four annas	one anna.
(*b*) exceeds four annas but does not exceed twelve annas	two annas.
(*c*) exceeds twelve annas but does not exceed one rupee	four annas.
(*d*) exceeds one rupee but does not exceed two rupees	eight annas.
(*e*) exceeds two rupees but does not exceed four rupees	twelve annas.
(*f*) exceeds four rupees but does not exceed nine rupees	one rupee eight annas.
(*g*) exceeds nine rupees but does not exceed ten rupees	two rupees.
(*h*) exceeds ten rupees, for the first ten rupees and for every ten rupees or part of ten rupees over ten rupees	two rupees.

Admission to entertainments.

4. No person shall be admitted for payment to any entertainment where the payment is subject to the entertainments tax except,— [*Cf.* 6, Geo. V, c. 11, s. 1 (*2*).]

(*a*) with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not before used) issued by the Local Government for the purpose of revenue and denoting that the proper entertainments tax has been

(*b*) in special cases with the approval of the Local Government, through a barrier which, or by means of a mechanical contrivance which, automatically registers the number of persons admitted,

unless the proprietor of the entertainment has made arrangements approved by the Local Government for furnishing returns of the payments for admission to the entertainment and has given security up to an amount and in a manner approved by the Local Government for the payment of the entertainments tax.

Penalty for non-payment of tax.

5. If any person is admitted for payment to any place of entertainment and the provisions of section 4 are not complied with, the person admitted shall, on conviction before a Magistrate, be liable in respect of each such offence to a fine, not exceeding fifty rupees, and the proprietor of the entertainment to which such person is admitted shall, on conviction before a Magistrate, be liable in respect of each such offence to a fine of five hundred rupees, and shall in addition be liable to pay any tax which should have been paid. [*Cf.* 6, Geo. V, c. 11, s. 1 (*2*).]

Manner of payment.

6. (*1*) The entertainments tax shall be charged in respect of each person admitted for payment, and in the case of admission by stamped ticket, shall be paid by means of the stamp on the ticket and in the case of admission otherwise than by stamped ticket, shall be calculated and paid on the number of admissions. [*Cf.* 6, Geo. V, c. 11, s. 1 (*3*) and (*4*).]

(*2*) The entertainments tax, in the case of admission otherwise than by stamped ticket, shall be recoverable from the proprietor.

(*3*) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any society, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, the entertainments tax shall be paid on the amount of the lump sum, but where the Local Government are of opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment, or covers admission to an entertainment during any period for which the tax has not been in operation, the tax shall be charged on such an amount as appears to the Local Government to represent the right of admission to entertainments in respect of which the entertainments tax is payable.

Exemptions.

7. (*1*) The entertainments tax shall not be charged on payments for admission to any entertainment where the Local Government are satisfied— [*Cf.* 6, Geo. V, c. 11, s. 1(*5*) and 11, Geo. V, c. 32, s. 7(*2*).]

(*a*) that the whole of the takings thereof are devoted to philanthropic or charitable purposes without any charge on the takings for any expenses of the entertainment; or

(*b*) that the entertainment is of a wholly educational character (any question on that point to be determined in the case of difference by the Local Government in the Department of Education); or

(c) that the entertainment is intended only for the amusement of children, and that the charge is not more than one anna for each person; or

(d) that the entertainment is provided for partly educational or partly scientific purposes by a society, not conducted or established for profit; or

(e) that the entertainment is provided by a society which is established solely for the purpose of promoting the interest of the industry of agriculture, or the manufacturing industry, or some branch thereof, or the public health, and which is not conducted for profit, and consists solely of an exhibition of the products of the industry, or branch thereof, for promoting the interests of which the society exists, or of materials, machinery, appliances, or foodstuffs, used in the production of those products, or of articles which are of material interest in connection with the questions relating to the public health, as the case may be.

(2) The Local Government may, by general or special order, exempt any entertainment or class of entertainments from liability to the entertainments tax.

Refunds in certain circumstances.

8. Where the Local Government are satisfied that the whole of the net proceeds of an entertainment are devoted to philanthropic or charitable purposes, and that the whole of the expenses of the entertainment do not exceed twenty per cent. of the receipts, they shall repay to the proprietor the amount of the entertainments tax paid in respect of the entertainment. [Cf. 6, Geo. V, c. 11, s. 1(5).]

Recoveries.

9. (1) Any sum due on account of the entertainments tax shall be recoverable by the Local Government as a public demand.

(2) Any fine imposed under this Act shall be recovered in the manner provided in the Code of Criminal Procedure, 1898, for the recovery of fines. Act V of 1898.

Inspection.

10. (1) Any officer authorized by the Local Government for the purpose may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment at any reasonable times, with a view to seeing whether the provisions of this Act or any rules made thereunder are being complied with. [Cf. 6, Geo. V, c. 11, s. 2(2).]

(2) If any person prevents or obstructs the entry of any officer so authorized he shall, in addition to any other punishment to which he is liable under any law for the time being in force, be liable on conviction before a Magistrate to a fine not exceeding two hundred rupees.

(3) Every officer authorized under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Act XLV of 1860.

Rules.

11. (*1*) The Local Government may make rules for securing the payment of the entertainments tax and generally for carrying into effect the provisions of this Act, and in particular— [*Cf.* 6, Geo. V, c. 11, s. 2(*1*).]

(*a*) for the supply and use of stamps or stamped tickets, or for the stamping of tickets sent to be stamped; and for securing the defacement of stamps when used;

(*b*) for the use of tickets covering the admission of more than one person and the calculation of the tax thereon; and for the payment of the tax on the transfer from one part of a place of entertainment to another;

(*c*) for controlling the use of barriers or mechanical contrivances (including the prevention of the use of the same barrier or mechanical contrivance for payments of a different amount), and for securing proper records of admission by means of barriers or mechanical contrivances;

(*d*) for the renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund under this Act or under the rules made thereunder; and

(*e*) for the keeping of accounts of all stamps used under this Act.

(*2*) If any person acts in contravention of, or fails to comply with, any such rules he shall, on conviction before a Magistrate, be liable in respect of each offence to a fine not exceeding five hundred rupees.

Power to Local Government to delegate certain powers.

12. The Local Government may, by notification in the *Calcutta Gazette*, delegate all or any of their powers under this Act, except those conferred upon them by sub-section (*4*) of section 1, by section 11, and by this section, to any person or to any authority subordinate to the Local Government.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to provide additional revenues for the province of Bengal in order to remove part of the existing deficit in the provincial revenues. It is based on the Acts whereby similar taxation has been imposed in the United Kingdom.

Notes on clauses.

Clause 1.—The proposed Act will extend to the whole of Bengal. It is, however, intended in the first instance to restrict its coming into operation to Calcutta, the maidan portion of Fort William with the Esplanade and a portion of Hastings, the Barrackpore Cantonment and certain suburban and other municipalities, power being taken to bring the Act into operation in any other area in Bengal by notification.

Clauses 3 to 6—are based on section 1 of the Finance (New Duties) Act, 1916 (6, Geo. V, c. 11), with necessary modifications. In section 5 the provisions of the English Act for a fixed fine on the proprietor in the event of illegal admissions have been retained, as it is specially the business of the proprietor to see to the observance of the law, but the Court has been given a discretion in regard to the fine that shall be inflicted on any person admitted to an entertainment without payment of the tax.

Sub-clause (1) of clause 7—is based largely on the English Act, as amended by section 7 of the Act of 1921, but by sub-clause (2) power is given to the Local Government to exempt any entertainment or class of entertainments from liability to the entertainments tax.

Clauses 8 and 10—are also based on the English Act, with the alterations necessary on account of local conditions.

Clause 9—deals with the methods for the recovery of arrears of the tax and of fines.

Clause 11—is the rule making clause.

Clause 12—empowers the Local Government to delegate certain of their powers under the Act.

J. H. KERR,
Member in charge.

CALCUTTA,
The 29th November, 1921.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

NOTIFICATION.

No. 3646-L.—The 9th December 1921.—His Excellency the Governor having been pleased to order, under rule 18 of the Bengal Legislative Council Rules, 1920, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Calcutta Gazette*, the Bill aud the Statement of Objects and Reasons are accordingly hereby published for general information.

It is proposed to introduce the Bill at the session of the Bengal Legislative Council commencing on Monday, the 19th December, 1921, and at the same session to move that it be referred to a Select Committee.

C. TINDALL,

Secretary to the Government of Bengal and
Secretary to the Bengal Legislative Council.

A

BILL

to amend the Court-fees Act, 1870, and the Presidency Small Cause Courts Act, 1882, with reference to the scale of court-fees in Bengal.

WHEREAS it is necessary to revise the scale of court-fees for Bengal, by amendment of the Court-fees Act, 1870, and the Presidency Small Cause Courts Act, 1882, in their application to Bengal, in the manner hereinafter appearing; VII of 1870 XV of 1882.

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bengal Court-fees Act, 1921.

Application of Act.

2. The Court-fees Act, 1870, as amended by subsequent legislation, and the Presidency Small Cause Courts Act, 1882, as amended by subsequent legislation, shall be amended, in their application to Bengal, in the manner hereinafter provided. VII of 1870. XV of 1882.

Amendment of section 18 of Act VII of 1870.

3. In section 18 of the Court-fees Act, 1870, for the words "a fee of eight annas" the words "a fee of one rupee" shall be substituted.

Amendment of section 19.

4. In item viii in section 19 of the same Act, for the words "one thousand rupees" the words "two thousand rupees" shall be substituted.

Amendment of Schedule I, Article 1.

5. (*1*) In the third column in Article 1 in the first schedule to the same Act,—

(*a*) for the words "Six annas," opposite the first entry in the second column, the words "Eight annas" shall be substituted;

(*b*) for the words "Six annas," opposite the second entry in the second column, the words "Nine annas" shall be substituted;

(*c*) for the words "Twelve annas," opposite the third entry in the second column, the words "One rupee two annas" shall be substituted;

(*d*) for the words "Five rupees," opposite the fourth entry in the second column, the words "Seven rupees eight annas" shall be substituted;

(*e*) for the words "Ten rupees," opposite the fifth entry in the second column, the words "Fifteen rupees" shall be substituted;

(*f*) for the words "Fifteen rupees," opposite the sixth entry in the second column, the words "Twenty-two rupees eight annas" shall be substituted;

(*g*) for the words "Twenty rupees," opposite the seventh entry in the second column, the words "Thirty rupees" shall be substituted;

(*h*) for the words "Twenty rupees," opposite the eighth entry in the second column, the words "Thirty rupees" shall be substituted;

(*i*) for the words "Twenty-five rupees," opposite the ninth entry in the second column, the words "Thirty rupees" shall be substituted.

(*2*) The proviso, as to the maximum fee, after the ninth entry in the second column of the said article, shall be omitted.

Amendment of Schedule I, Article 6.

6. In the third column in Article 6 in the same schedule to the same Act,—

(*a*) for the words "Four annas," opposite clause (*a*) in the first entry in the second column, the words "Six annas" shall be substituted; and

(*b*) for the words "Eight annas," opposite clause (*b*) in the first entry in the second column, the words "Twelve annas" shall be substituted.

Amendment of Schedule I, Article 11.

7. For the entries above the proviso in the second column and for the entries in the third column, in Article 11 in the same schedule to the same Act, the following shall be substituted, namely :—

"When the amount or value of the property in respect of which the grant of probate or letters is made exceeds two thousand rupees, but does not exceed five thousand rupees.	Two per centum on such amount or value.
When such amount or value exceeds five thousand rupees, but does not exceed ten thousand rupees.	Three per centum on such amount or value.
When such amount or value exceeds ten thousand rupees.	Five per centum on such amount or value."

Amendment of Schedule I, Article 12.

8. For the entry in the second column of Article 12 in the same schedule to the same Act, and for the first paragraph in the third column of the said article, the following shall be substituted, namely :—

"When the amount or value of any debt or security specified in the certificate under section 8 of the Act exceeds two thousand rupees, but does not exceed five thousand rupees.	Two per centum on such amount or value, and three per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act."

When such amount or value exceeds five thousand rupees, but does not exceed ten thousand rupees.	Three per centum on such amount or value and four-and-a-half per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act.
When such amount or value exceeds ten thousand rupees.	Five per centum on such amount or value and seven-and-a-half per centum on the amount or value of any debt or security to which the certificate is extended under section 10 of the Act."

Amendment of table of rates of *ad valorem* fees.

9. For the table of rates of *ad valorem* fees leviable on the institution of suits, at the end of the same schedule to the same Act, the table set forth in the Schedule to this Act shall be substituted.

Amendment of Schedule II, Article I, clauses (*a*), (*b*) and (*c*).

10. In the third column in Article 1 in the second schedule to the same Act—

(*1*) for the words "One anna," opposite clause (*a*) in the second column, the words "Two annas" shall be substituted;

(*2*) for the words "Eight annas," opposite clause (*b*) in the second column, the following shall be substituted, namely :—

"In the case of a criminal complaint one rupee, and in other cases twelve annas; and"

(*3*) for the words "One rupee" opposite clause (*c*) in the second column, the words "One rupee and eight annas" shall be substituted.

Amendment of Schedule II, Article I, clause (*d*).

11. For clause (*d*) in the second column in Article 1 in the same schedule, and for the entries opposite that clause in the third column thereof, the following clause and entries shall be substituted, namely :—

(*d*) (*i*) When presented to the High Court under section 115 of the Code of Civil Procedure, 1908, for revision of an order— Act V 1908.

(*a*) when the value of the suit to which the order relates does not exceed Rs. 1,000;	Five rupees.
(*b*) when the value of the suit exceeds Rs. 1,000.	Ten rupees.
(*ii*) When presented to the High Court otherwise than under that section.	Two rupees.

Amendment of Schedule II, Article 10.

12. In the third column in Article 10 in the same schedule to the same Act,—

(*1*) for the words "Eight annas," opposite clause (*a*) in the second column, the words "One rupee" shall be substituted; and

(*2*) for the words "One rupee," opposite clause (*b*) in the second column, the words "One rupee and eight annas" shall be substituted.

Amendment of Schedule II, Article 12.

13. Above the words "Five rupees," where they occur in the third column opposite Articles 12 and 13, in the same schedule to the same Act, the words "Ten rupees" shall be inserted opposite Article 12, and the bracket between Articles 12 and 13 in the second column shall be omitted.

Amendment of Schedule II, Article 17.

14. (*1*) The words "Ten rupees" in the third column, opposite Article 17 of the same schedule, and the bracket opposite that article in the second column of the same schedule shall be omitted.

(*2*) In the third column of the same schedule—

(*a*) opposite entries (*i*), (*ii*), (*iv*) and (*vi*) of the said article the words "Fifteen rupees" shall be inserted; and

(*b*) opposite entries (*iii*) and (*v*) of the said article the words "Twenty rupees" shall be inserted.

Amendment of section 71 of Act XV of 1882.

15. In section 71 of the Presidency Small Clause Courts Act, 1882— XV of 1882.

(*1*) in clause (*a*), for the words "two annas" the words "three annas" shall be substituted; and

(*2*) in clause (*b*), for the words "sixty-two rupees eight annas," the words "ninety-three rupees twelve annas" shall be substituted, and after the words "one anna" the words "six pies" shall be inserted.

Exemption of certain probates, letters of administration and certificates.

16. Nothing in this Act shall apply to any probate, letters of administration or certificate in respect of which the fee payable under the law for the time being in force has been paid prior to the commencement of this Act, but which have not issued. [*Cf.* Act VII of 1910, s. 3.]

THE SCHEDULE.

Table of rates of *ad valorem* fees leviable on the institution of suits.

(*See* section 9 of the Bengal Court-fees Act, 192 .)

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.	
Rs.	Rs.	Rs.	A.
...	5	0	8
5	10	1	1
10	15	1	10
15	20	2	3
20	25	2	12
25	30	3	5
30	35	3	14
35	40	4	7
40	45	5	0
45	50	5	9
50	55	6	2
55	60	6	11
60	65	7	4
65	70	7	13
70	75	8	6
75	80	8	15
80	85	9	8
85	90	10	1
90	95	10	10
95	100	11	3
100	110	12	5
110	120	13	7
120	130	14	9
130	140	15	11
140	150	16	13
150	160	17	15
160	170	19	1
170	180	20	3
180	190	21	5
190	200	22	7
200	210	23	9
210	220	24	11
220	230	25	13
230	240	26	15
240	250	28	1
250	260	29	3
260	270	30	5
270	280	31	7
280	290	32	9
290	300	33	11
300	310	34	13
310	320	35	15
320	330	37	1
330	340	38	3
340	350	39	5
350	360	40	7
360	370	41	9
370	380	42	11
380	390	43	13
390	400	44	15
400	410	46	1
410	420	47	3
420	430	48	5
430	440	49	7
440	450	50	9

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.	
Rs.	Rs.	Rs.	A.
450	460	51	11
460	470	52	13
470	480	53	15
480	490	55	1
490	500	56	3
500	510	57	5
510	520	58	7
520	530	59	9
530	540	60	11
540	550	61	13
550	560	62	15
560	570	64	1
570	580	65	3
580	590	66	5
590	600	67	7
600	610	68	9
610	620	69	11
620	630	70	13
630	640	71	15
640	650	73	1
650	660	74	3
660	670	75	5
670	680	76	7
680	690	77	9
690	700	78	11
700	710	79	13
710	720	80	15
720	730	82	1
730	740	83	3
740	750	84	5
750	760	85	7
760	770	86	9
770	780	87	11
780	790	88	13
790	800	89	15
800	810	91	1
810	820	92	3
820	830	93	5
830	840	94	7
840	850	95	9
850	860	96	11
860	870	97	13
870	880	98	15
880	890	100	1
890	900	101	3
900	910	102	5
910	920	103	7
920	930	104	9
930	940	105	11
940	950	106	13
950	960	107	15
960	970	109	1
970	980	110	3
980	990	111	5
990	1,000	112	7
1,000	1,100	119	15
1,100	1,200	127	7
1,200	1,300	134	15
1,300	1,400	142	7
1,400	1,500	149	15
1,500	1,600	157	7
1,600	1,700	164	15

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.	
Rs.	Rs.	Rs.	A.
1,700	1,800	172	7
1,800	1,900	179	15
1,900	2,000	187	7
2,000	2,100	194	15
2,100	2,200	202	7
2,200	2,300	209	15
2,300	2,400	217	7
2,400	2,500	224	15
2,500	2,600	232	7
2,600	2,700	239	15
2,700	2,800	247	7
2,800	2,900	254	15
2,900	3,000	262	7
3,000	3,100	269	15
3,100	3,200	277	7
3,200	3,300	284	15
3,300	3,400	292	7
3,400	3,500	299	15
3,500	3,600	307	7
3,600	3,700	314	15
3,700	3,800	322	7
3,800	3,900	329	15
3,900	4,000	337	7
4,000	4,100	344	15
4,100	4,200	352	7
4,200	4,300	359	15
4,300	4,400	367	7
4,400	4,500	374	15
4,500	4,600	382	7
4,600	4,700	389	15
4,700	4,800	397	7
4,800	4,900	404	15
4,900	5,000	412	7
5,000	5,250	427	7
5,250	5,500	442	7
5,500	5,750	457	7
5,750	6,000	472	7
6,000	6,250	487	7
6,250	6,500	502	7
6,500	6,750	517	7
6,750	7,000	532	7
7,000	7,250	547	7
7,250	7,500	562	7
7,500	7,750	577	7
7,750	8,000	592	7
8,000	8,250	607	7
8,250	8,500	622	7
8,500	8,750	637	7
8,750	9,000	652	7
9,000	9,250	667	7
9,250	9,500	682	7
9,500	9,750	697	7
9,750	10,000	712	7
10,000	10,500	734	15
10,500	11,000	757	7
11,000	11,500	779	15
11,500	12,000	802	7
12,000	12,500	824	15
12,500	13,000	847	7
13,000	13,500	869	15
13,500	14,000	892	7
14,000	14,500	914	15

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.	
Rs.	Rs.	Rs.	A.
14,500	15,000	937	7
15,000	15,500	959	15
15,500	16,000	982	7
16,000	16,500	1,004	15
16,500	17,000	1,027	7
17,000	17,500	1,049	15
17,500	18,000	1,072	7
18,000	18,500	1,094	15
18,500	19,000	1,117	7
19,000	19,500	1,139	15
19,500	20,000	1,162	7
20,000	21,000	1,192	7
21,000	22,000	1,222	7
22,000	23,000	1,252	7
23,000	24,000	1,282	7
24,000	25,000	1,312	7
25,000	26,000	1,342	7
26,000	27,000	1,372	7
27,000	28,000	1,402	7
28,000	29,000	1,432	7
29,000	30,000	1,462	7
30,000	32,000	1,492	7
32,000	34,000	1,522	7
34,000	36,000	1,552	7
36,000	38,000	1,582	7
38,000	40,000	1,612	7
40,000	42,000	1,642	7
42,000	44,000	1,672	7
44,000	46,000	1,702	7
46,000	48,000	1,732	7
48,000	50,000	1,762	7
50,000	55,000	1,792	7
55,000	60,000	1,822	7
60,000	65,000	1,852	7
65,000	70,000	1,882	7
70,000	75,000	1,912	7
75,000	80,000	1,942	7
80,000	85,000	1,972	7
85,000	90,000	2,002	7
90,000	95,000	2,032	7
95,000	1,00,000	2,062	7
1,00,000	1,05,000	2,092	7
1,05,000	1,10,000	2,122	7
1,10,000	1,15,000	2,152	7
1,15,000	1,20,000	2,182	7
1,20,000	1,25,000	2,212	7
1,25,000	1,30,000	2,242	7
1,30,000	1,35,000	2,272	7
1,35,000	1,40,000	2,302	7
1,40,000	1,45,000	2,332	7
1,45,000	1,50,000	2,362	7
1,50,000	1,55,000	2,392	7
1,55,000	1,60,000	2,422	7
1,60,000	1,65,000	2,452	7
1,65,000	1,70,000	2,482	7
1,70,000	1,75,000	2,512	7
1,75,000	1,80,000	2,542	7
1,80,000	1,85,000	2,572	7
1,85,000	1,90,000	2,602	7
1,90,000	1,95,000	2,632	7
1,95,000	2,00,000	2,662	7
2,00,000	2,05,000	2,692	7

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.	
Rs.	Rs.	Rs.	A.
2,05,000	2,10,000	2,722	7
2,10,000	2,15,000	2,752	7
2,15,000	2,20,000	2,782	7
2,20,000	2,25,000	2,812	7
2,25,000	2,30,000	2,842	7
2,30,000	2,35,000	2,872	7
2,35,000	2,40,000	2,902	7
2,40,000	2,45,000	2,932	7
2,45,000	2,50,000	2,962	7
2,50,000	2,55,000	2,992	7
2,55,000	2,60,000	3,022	7
2,60,000	2,65,000	3,052	7
2,65,000	2,70,000	3,082	7
2,70,000	2,75,000	3,112	7
2,75,000	2,80,000	3,142	7
2,80,000	2,85,000	3,172	7
2,85,000	2,90,000	3,202	7
2,90,000	2,95,000	3,232	7
2,95,000	3,00,000	3,262	7
3,00,000	3,05,000	3,292	7
3,05,000	3,10,000	3,322	7
3,10,000	3,15,000	3,352	7
3,15,000	3,20,000	3,382	7
3,20,000	3,25,000	3,412	7
3,25,000	3,30,000	3,442	7
3,30,000	5,35,000	3,472	7
3,35,000	3,40,000	3,502	7
3,40,000	3,45,000	3,532	7
3,45,000	3,50,000	3,562	7
3,50,000	3,55,000	3,592	7
3,55,000	3,60,000	3,622	7
3,60,000	3,65,000	3,652	7
3,65,000	3,70,000	3,682	7
3,70,000	3,75,000	3,712	7
3,75,000	3,80,000	3,742	7
3,80,000	3,85,000	3,772	7
3,85,000	3,90,000	3,802	7
3,90,000	3,95,000	3,832	7
3,95,000	4,00,000	3,862	7
4,00,000	4,05,000	3,892	7
4,05,000	4,10,000	3,922	7
4,10,000	4,15,000	3,952	7

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to provide additional revenues for the province of Bengal, in order to remove part of the existing deficit in the provincial revenues. It is proposed to effect this by varying the rates of court-fees as in the Bill.

J. H. KERR,
Member in charge.

CALCUTTA,
The 30th November, 1921;

The Calcutta Gazette

WEDNESDAY, OCTOBER 26, 1921.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Bill was introduced in the Legislative Assembly on the 19th September, 1921 :—

No. 26 OF 1921.

A

BILL

to consolidate and amend the law relating to Income-tax and Super-tax.

WHEREAS it is expedient to consolidate and amend the law relating to Income-tax and Super-tax; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Indian Income-tax Act, 192 ;

(*2*) It extends to the whole of British India, including the Sonthal Parganas, and applies also, within the dominions of Princes and Chiefs in India in alliance with His Majesty, to British subjects in those dominions who are in the service of the Government of India or of a local authority established in the exercise of the powers of the Governor-General in Council in that behalf, and to all other servants of His Majesty in those dominions; and

(*3*) It shall come into force on the first day of April 192 .

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Agricultural income" means—

(*a*) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land revenue or subject to a local rate assessed and collected by officers of Government as such;

(*b*) any income derived from—

(*i*) agriculture, or

(*ii*) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(*iii*) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, when he does not keep a shop or stall for the sale of such produce, or

(*iv*) any building owned and occupied by the receiver of the rent or revenue of any such land as is referred to in clause (*a*), or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (*ii*) and (*iii*) is carried on:

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind, by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other outbuilding;
but does not include income derived from forestry;

(*2*) "Assessee" means a person by whom income-tax is payable, and includes a firm, a partnership and a Hindu undivided family;

(*3*) "Assessor" means a person appointed to be an Assessor under section 5;

(*4*) "Assistant Commissioner" means a person appointed to be an Assistant Commissioner of Income-tax under section 5;

(*5*) "Business" includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture;

(*6*) "Commissioner" means a person appointed to be a Commissioner of Income-tax under section 5;

(*7*) "Company" means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession, and includes any foreign association carrying on business in British India whether incorporated or not, and whether its principal place of business is situate in British India or not, which the Governor General in Council may, by general or special order, declare to be a company for the purposes of this Act; VII of 1913

(8) "Local authority" includes any person legally entitled to the control or management of any municipal or local fund;

(9) "Magistrate" means a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by the Local Government to try offences against this Act;

(10) "Prescribed" means prescribed by rules made under this Act;

(11) "Previous year" means—

(a) the twelve months ending on the 31st day of March next preceding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day on which his accounts have so been made up;

Provided that, if this option has once been exercised by the assessee it shall not again be exercised so as to vary the meaning of the expression "previous year" as then applicable to such assessee except with the consent of the Assessor and upon such conditions as he may think fit; or

(b) in the case of any person, business or company or class of person, business or company such period as may be determined by the Governor-General in Council or by such authority as the Governor-General in Council may authorise in this behalf;

(12) "Principal officer" used with reference to a local authority or a company or any other public body or association not being a local authority or company means—

(a) the secretary, treasurer, manager or agent of the authority, company, body or association, or

(b) any person connected with the authority, company, body or association upon whom the Assessor has served a notice of his intention of treating him as the principal officer thereof; and

(13) "Total income" means total income from all sources to which this Act applies computed in the manner laid down in section 16.

CHAPTER I.

CHARGE OF INCOME-TAX.

Charge of income-tax.

3. Where any Act of the Indian Legislature enacts that income-tax shall be charged for any year at any rate or rates applicable to the total income of an assessee, tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions of, this Act in respect of all income, profits and gains of the previous year.

Application of Act.

4. (*1*) Save as hereinafter provided, this Act shall apply to all income, profits or gains, as described or comprised in section 6, from whatever source derived, accruing, or arising, or received in British India, or deemed under the provisions of this Act to accrue, or arise, or to be received in British India.

(*2*) Income, profits or gains accruing or arising without British India and received in British India shall be deemed to be received in British India in the year in which they are so received, notwithstanding the fact that they did not so accrue or arise in that year.

(*3*) This Act shall not apply to the following classes of income :—

(*i*) Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes, the income applied, or finally set apart for application, thereto.

(*ii*) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes.

(*iii*) The income of local authorities.

(*iv*) Interest on securities which are held by, or are the property of, any Provident Fund to which the Provident Funds Act, 1897, applies, or any Provident Insurance Society to which the Provident Insurance Societies Act, 1912, is, or, but for an exemption under that Act, would be, applicable. IX of 1897. V of 1912.

(*v*) Any capital sum received in commutation of the whole or a portion of a pension, or in the nature of consolidated compensation for death or injuries, or in payment of any insurance policy, or as the accumulated balance at the credit of a subscriber to any such Provident Fund.

(*vi*) Any special allowance, benefit or perquisite specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit.

(*vii*) Any receipts not being receipts arising from business or the exercise of a profession, vocation or occupation, which are of a casual and non-recurring nature, or are not by way of addition to the remuneration of an employe.

(*viii*) Agricultural income.

In this sub-section "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility.

CHAPTER II.

INCOME-TAX OFFICERS.

Income-tax officers.

5. (*1*) There shall be the following classes of Income-tax officers for the purposes of this Act, namely :—

(*a*) Commissioners of Income-tax.

(*b*) Assistant Commissioners of Income tax and

(*c*) Assessors.

(*2*) There shall be a Commissioner of Income-tax for each province who shall be appointed by the Governor General in Council after consideration of any recommendation made by the Local Government in this behalf.

(*3*) Assistant Commissioners of Income-tax and Assessors shall, subject to the control of the Governor General in Council, be appointed by the Commissioner of Income-tax by order in writing which shall specify the areas within which such officers shall perform their functions.

(*4*) The Governor General in Council may, by notification in the Gazette of India, appoint Commissioners of Income-tax, Assistant Commissioners of Income-tax and Assessors to perform such functions in respect of such classes of persons or such classes of income, and for such area, as may be specified in the notification, and thereupon the functions so specified shall cease, within the specified area, to be performed, in respect of the specified classes of persons or classes of income, by the officers appointed under sub-sections (*2*) and (*3*).

(*5*) Assistant Commissioners of Income-tax and Assessors appointed under sub-section (*3*) shall, for the purposes of this Act, be subordinate to the Commissioner of Income-tax appointed under sub-section (*2*) for the province in which they perform their functions.

XLV of 1860

(*6*) All Income-tax officers shall be deemed to be public servants within the meaning of this Act and of the Indian Penal Code.

CHAPTER III.

TAXABLE INCOME.

Classes of income chargeable to income-tax.

6. Save as otherwise provided by this Act, the following heads of income, profits and gains shall be chargeable to income-tax in the manner hereinafter appearing, namely :—

(*i*) Salaries.

(*ii*) Interest on securities.

(*iii*) Property.

(*iv*) Business.

(*v*) Professional earnings.

(*vi*) Other sources.

Salaries.

7. (*1*) The tax shall be payable by an assessee under the head "Salaries" in respect of any salary or wages, any annuity, pension or gratuity, and any fees, commissions perquisites or profits received by him in lieu of, or in addition to, any salary or wages, which are paid by or on behalf of Government, a local authority, a company, or any other public body or association not being a local authority or company, or by or on behalf of any private employer :

Provided that the tax shall not be payable in respect of any sum deducted under the authority of Government from the salary of any individual for the purpose of securing to him a deferred annuity or of making provision for his wife or children, provided that the sum so deducted shall not exceed one-sixth of the salary.

(*2*) Any income which would be chargeable under this head if paid in British India shall be deemed to be so chargeable if paid to a British subject or any servant of His Majesty in any part of India by Government or by a local authority established by the Governor General in Council.

Interest on securities.

8. The tax shall be payable by an assessee under the head "Interest on securities" in respect of the interest receivable by him on any security of the Government of India or of a local Government, or on debentures or other securities for money issued by or on behalf of a local authority or a company :

Provided that no tax shall be payable on the interest receivable on any security of the Government of India issued or declared to be income-tax free.

Property.

9. The tax shall be payable by an assessee under the head "Property" in respect of the *bonâ fide* annual value of any buildings or lands of which he is the owner, other than such portions of such buildings and land as he may occupy for the purposes of his business, subject to the following allowances, namely :—

(*i*) where the property is in the occupation of the owner, or where it is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of such value ;

(*ii*) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the difference between such value and the rent paid by the tenant up to but not exceeding one-sixth of such value ;

(*iii*) the amount of any annual premium paid to insure the property against risk of damage or destruction ;

(*iv*) where the property is subject to a mortgage or charge or to a ground rent, the amount of any interest on such mortgage or charge or of any such ground rent ;

(*v*) any sums paid on account of land-revenue in respect of the property ;

(*vi*) in respect of collection charges, a sum not exceeding the prescribed maximum ;

(*vii*) in respect of vacancies, such sum as the Assessor may determine having regard to the circumstances of the case.

For the purposes of this section, the expression "annual value" shall be deemed to mean the sum for which the property might reasonably be expected to let from year to year:

Provided that, where the property is in the occupation of the owner for the purposes of his own residence, such sum shall, for the purposes of this section, be deemed not to exceed ten per cent. of the aggregate income of the owner.

Business.

10. (*1*) The tax shall be payable by an assessee under the head "Business" in respect of the profits or gains of any business carried on by him.

(*2*) Such profits or gains shall be computed after making the following allowances, namely:—

(*i*) any rent paid for the premises in which such business is carried on, provided that, when any substantial part of the premises is used as a dwelling-house by the assessee, the allowance under this clause shall be such sum as the Assessor may determine having regard to the proportional part so used;

(*ii*) in respect of repairs, where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount paid on account thereof, provided that, if any substantial part of the premises is used by the assessee as a dwelling-house, a proportional part only of such amount shall be allowed;

(*iii*) to respect of capital borrowed for the purposes of the business, where the payment of interest thereon is not in any way dependent on the earning of profits, the amount of the interest paid;

(*iv*) in respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores, used for the purposes of the business, the amount of any premium paid;

(*v*) in respect of current repairs to such buildings, machinery, or plant, the amount paid on account thereof;

(*vi*) in respect of depreciation of such buildings, machinery, or plant being the property of the assessee, a sum equivalent to such percentage on the original cost thereof to the assessee as may in any case or class of cases be prescribed:

Provided that—

(*a*) the prescribed particulars have been duly furnished;

(*b*) where full effect cannot be given to any such allowance in any year owing to there being no profits or gains chargeable for that year or owing to the profits or gains chargeable being less than the allowance, the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and deemed to be part of that allowance, or, if there is no such allowance for that year, be deemed to be the allowance for that year, and so on for succeeding years; and

(*c*) the aggregate of the allowances made under this sub-head either under this Act or any Act repealed thereby shall, in no case, exceed the original cost to the assessee of buildings, machinery, or plant, as the case may be;

(*vii*) in respect of any machinery or plant which has been sold or discarded as obsolete, the difference between the original cost to the assessee of the machinery or plant as reduced by the aggregate of the allowances made in respect of depreciation under clause (*vi*) and the amount for which the machinery or plant is actually sold, or its scrap value;

(*viii*) any sums paid on account of land-revenue, local rates or municipal taxes in respect of such part of the premises as is used for the purposes of the business;

(*ix*) any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of earning such profits or gains.

(*3*) In sub-section (*2*) the word "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under this section.

Professional earnings.

11. (*1*) The tax shall be payable by an assessee under the head "Professional earnings" in respect of the profits or gains of any profession, or vocation, followed by him.

(*2*) Such profits or gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purposes of such profession or vocation, provided that no allowance shall be made on account of any personal expenses of the assessee.

(*3*) Professional fees paid in any part of India to a person ordinarily resident in British India shall be deemed to be profits or gains chargeable under this head.

Other sources.

12. (*1*) The tax shall be payable by an assessee under the head "Other sources" in respect of income, profits and gains of every kind and from every source to which this Act applies (if not included under any of the preceding heads).

(*2*) Such income, profits and gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of making or earning such income, profits or gains, provided that no allowance shall be made on account of any personal expenses of the assessee.

Method of accounting.

13. Income, profits and gains shall be computed for the purposes of sections 10, 11 and 12, in accordance with the method of accounting regularly employed by the assessee:

Provided that, if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Assessor, the income, profits and gains cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as the Assessor may determine.

Exemption of a general nature.

14. The tax shall not be payable by an assessee in respect of—

(*a*) any sum which he receives as a member of a Hindu undivided family; or

(*b*) any sum which he receives by way of dividend as a member of a company; or

(*c*) any sum which he is entitled to receive as his share of the profits or gains of any partnership or firm.

Exemption in the case of life insurances.

15. The tax shall not be payable by an assessee in respect of any sums paid by him to effect an insurance on his own life or on the life of his wife, or in respect of a contract for a deferred annuity on his own life or on the life of his wife, or as a contribution to any Provident Fund to which the Provident Funds Act, 1897, applies, or to any Provident Fund which complies with the provisions of the Provident Insurance Societies Act, 1912, or has been exempted from the provisions of that Act: IX of 1897. V of 1912.

Provided that the aggregate of any sum so exempted shall not, together with any sums exempted under the proviso to sub-section (*1*) of section 7, exceed one-sixth of the total income of the assessee.

Exemptions and exclusions in determining the total income.

16. (*1*) In computing the total income of an assessee for the purpose of determining the rate at which the tax is to be charged, sums exempted under the proviso to sub-section (*1*) of section 7, the proviso to section 8, clauses (*b*) and (*c*) of section 14 and section 15, shall be taken into account.

(*2*) For the purposes of sub-section (*1*), the sums mentioned in clauses (*b*) and (*c*) of section 14 shall be increased by the amount of income-tax payable by the company or firm in respect of the dividend received, or the share of the profits, as the case may be.

Firms and companies to be charged at the maximum rate.

17. Notwithstanding any enactment fixing a minimum amount of income, profits or gains on which, or varying rates at which, income-tax shall be chargeable, income-tax shall be chargeable on the income, profits or gains of every company, firm and partnership at the maximum rate.

Reduction of tax when margin above a certain limit is small.

18. Where owing to the fact that the total income of any person has reached or exceeded a certain limit, he is liable to pay income-tax or to pay income-tax at a higher rate, the amount of income-tax payable by him shall, where necessary, be reduced so as not to exceed the aggregate of the following amounts, namely:—

(*a*) the amount which would have been payable if his total income had been a sum less by one rupee than that limit, and

(*b*) the amount by which his total income exceeds that sum.

CHAPTER IV.

DEDUCTIONS AND ASSESSMENT.

Payment by deduction at source.

19. (*1*) Income tax shall, unless otherwise prescribed in the case of any security of the Government of India, be leviable in advance by deduction at the time of payment in respect of income chargeable under the following heads :—

(*i*) "Salaries"; and

(*ii*) "Interest on securities."

(*2*) Any person paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax on the amount payable at the rate applicable to such amount or, if the payment is a recurring one and in respect of any period less than a year, at the rate applicable to the amount which would be proportionately payable in a year, as if such amount, in either case, were the total income of the assessee:

Provided that such person may make up any deficiency in any previous deduction by addition to any deduction made under this sub-section.

(*3*) The person responsible for paying any income chargeable under the head "Interest on securities" shall, at the time of payment, deduct income-tax on the amount of the interest payable at the maximum rate.

(*4*) All sums deducted in accordance with the provisions of this section shall, for the purpose of computing the income of an assessee, be deemed to be income received.

(*5*) Any deduction made in accordance with the provisions of this section shall be treated as a payment of income-tax on behalf of the person from whose earnings the deduction was made, or of the owner of the security, as the case may be, and credit shall be given to him therefor in the assessment, if any, made for the following year under this Act:

Provided that, if such person or such owner obtains, in accordance with the provisions of this Act, a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund.

(*6*) All sums deducted in accordance with the provisions of this section shall be paid within the prescribed time by the person making the deduction to the credit of the Government of India, or as the Governor General in Council directs.

(*7*) If any such person does not deduct and pay the tax as required by this section, he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

(*8*) The power to deduct under this section shall be without prejudice to any other mode of recovery.

(9) Every person deducting income-tax in accordance with the provisions of sub-section (3) shall, at the time of payment of interest, furnish to the person to whom the interest is payable a certificate to the effect that income-tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted, and such other particulars as may be prescribed.

Payment in other cases.

20. In the case of income chargeable under any other head than those mentioned in sub-section (1) of section 19, the tax shall be payable by the assessee direct.

Certificate by company to shareholders receiving dividends.

21. The principal officer of every company shall, at the time of distribution of dividends, furnish to every person receiving a dividend certificate to the effect that the company has paid or will pay income-tax on the profits which are being distributed, and specifying the amount of tax paid or to be paid, the rate at which it has been or is to be paid, and such other particulars as may be prescribed.

Annual return.

22. The prescribed person in the case of every Government office, and the principal officer of every local authority, and of every company, and of every other public body or association not being a local authority or company, and every private employer shall prepare, and, within fifteen days from the 31st day of March in each year, deliver or cause to be delivered to the Assessor, in the prescribed form, a return in writing showing—

(a) the name and, so far as it is known, the address, of every person who was receiving on the said 31st day of March, or has received during the year ending on that date, from the authority, company, body, association or private employer, as the case may be, any income chargeable under the head "Salaries" of such amount as may be prescribed;

(b) the amount of the income so received by each such person, and the time or times at which the same was paid;

(c) the amount deducted in respect of income-tax from each such person.

Return by assessees.

23. (1) The principal officer of every company shall prepare, and, on or before the fifteenth day of June in each year, deliver or cause to be delivered to the Assessor a return in the prescribed form and verified in the prescribed manner of the total income of the company during the previous year:

Provided that the Assessor may, in his discretion, extend the date for the delivery of the return in the case of any company or class of companies.

(2) In the case of any person other than a company whose total income is, in the Assessor's opinion, of such an amount as to render such person liable to income-tax, the Assessor shall serve a notice upon him requiring him to furnish, within such period as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total income during the previous year.

(3) The Assessor may serve on any assessee a notice requiring him, on a date to be therein specified, to produce or cause to be produced such accounts or documents as he may require.

24. (1) If the Assessor is satisfied that a return made under section 23 is correct and complete, he shall assess the total income of the assessee for the previous year on the basis of such return, and shall determine the sum payable by him for the year in which the return is made.

(2) If the Assessor has reason to believe that a return made under section 23 is incorrect or incomplete, he shall serve on the person who made the return a notice requiring him, on a date to be therein specified, either to attend at the Assessor's office or to produce, or to cause to be there produced, any evidence on which the assessee may rely in support of the return.

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, the Assessor, after hearing such evidence as the assessee may produce and such other evidence as the Assessor may require, shall, by an order in writing, assess the total income of the assessee for the previous year, and determine the sum payable by the assessee for the year in which the return is made on the basis of such assessment.

(4) If the principal officer of any company or any other person fails to make a return under sub-section (1) or sub-section (2) of section 23, as the case may be, or fails to comply with all the terms of a notice issued under sub-section (3) of the same section or, having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of this section, the Assessor shall make the assessment to the best of his judgment.

Set-off of loss in computing aggregate income.

25. Where any assessee sustains a loss in any year under any of the heads mentioned in section 6, he shall be entitled to have the amount of the loss set-off against his income, profits or gains under any other head.

Assessment in case of discontinued business.

26. (1) Where any business, profession or vocation is discontinued in any year, an assessment may be made in that year on the basis of the income, profits or gains of that portion of the year during which the business, profession or vocation was carried on in addition to the assessment, if any, made on the basis of the income, profits, or gains of the previous year.

(2) Any person intending to discontinue any business, profession or vocation in which he is engaged, shall give to the Assessor fifteen days' notice of his intention, and, where any person fails to give the notice required by this sub-section, the Assessor may direct that a sum shall be recovered from him by way of penalty equivalent to the amount of tax subsequently assessed on him in respect of any income, profits or gains of the business, profession or vocation up to the date of its discontinuance.

Change in ownership of business or in partnership.

27. Notwithstanding any change in the constitution of a firm or of a partnership of persons engaged in any business, profession or vocation, or where any person has succeeded to any business, profession or vocation, the assessment shall be made on the firm or partnership as constituted, or on the persons engaged in the business, profession or vocation, as the case may be, at the time of the making of the assessment.

Notice of demand.

28. When the Assessor has determined a sum to be payable by an assessee under section 24, he shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

Cancellation of assessment when cause is shown.

29. Where an assessee or, in the case of a company, the principal officer thereof, within one month from the service of a notice of demand under section 28, satisfies the Assessor that he was prevented by sufficient cause from making the return required by section 23, or that he did not receive the notice issued under sub-section (*3*) of section 23 or sub-section (*2*) of section 24, or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms of the last-mentioned notices, the Assessor may cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 24.

Petition against assessment under this Act.

30. (*1*) Any assessee objecting to the amount or rate at which he is assessed under section 24 or section 29, or denying his liability to be assessed under this Act, may apply by petition to the Assistant Commissioner for relief against any order of the Assessor in respect of such assessment.

Provided that no such application may be made in respect of an assessment made under sub-section (*4*) of section 24, or under that sub-section read with section 29.

(*2*) The petition shall ordinarily be presented within thirty days of receipt of the notice of demand relating to the assessment objected to; but the Assistant Commissioner may receive a petition after the expiration of that period, if he is satisfied that the objector had sufficient cause for not presenting it within that period.

(*3*) The petition shall be accompanied by a copy of the order of the Assessor, shall be in the prescribed form, and shall be verified in the prescribed manner.

Hearing of petition.

31. The Assistant Commissioner shall fix a day and place for the hearing of the petition, and on the day and at the place so fixed, or on the day and at the place, if any, to which he has adjourned the hearing, shall hear the petition and pass such order thereon, whether by way of confirmation, reduction, enhancement or cancellation, of the assessment or otherwise, as he thinks fit.

Power of review.

32. The Commissioner may, of his own motion, call for the record of any assessment proceeding which has been taken by any officer subordinate to him, and make such inquiry and pass such orders thereon, as he thinks fit:

Provided that he shall not pass any order enhancing the sum payable by an assessee without hearing him or giving him a reasonable opportunity of being heard.

Penalty for concealment of income.

33. If the Assessor or the Assistant Commissioner, in making any assessment under this Chapter, is satisfied that the assessee has concealed the particulars of his income, or has deliberately furnished inaccurate particulars of such income, and has thereby returned it below its real amount, the Assessor or the Assistant Commissioner may direct that the assessee shall, in addition to the income-tax payable by him, pay by way of penalty a sum equal to the amount of income-tax which would have been avoided, if the income so returned by the assessee had been accepted as the correct income:

Provided that no such order shall be made, unless the assessee has been heard, or has been given a reasonable opportunity of being heard:

Provided, further, that no prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

Income escaping assessment.

34. If for any reason income chargeable under this Act has escaped assessment in any year, or has been assessed at too low a rate, the Assessor may at any time within three years of the end of that year, serve on the person liable to pay tax on such income, or in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (*2*) of section 23, and may proceed to assess or re-assess such income, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

Rectification of mistake.

35. (*1*) The Assessor may, at any time within three years from the date of any demand made upon an assessee, on his own motion rectify any mistake apparent from the record of the assessment, and shall within the like period rectify any such mistake which has been brought to his notice by such assessee:

Provided that no such rectification shall be made, having the effect of enhancing an assessment unless the Assessor has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard.

(*2*) Where any such rectification has the effect of reducing the assessment, the Assessor shall make a refund to such assessee accordingly.

(*3*) Where any such rectification has the effect of enhancing the assessment, the Assessor shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 28, and the provisions of this Act shall apply accordingly.

Tax to be calculated to nearest anna.

36. In the determination of the amount of tax or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded, and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.

Power to take evidence on oath, etc.

37. The Assessor or Assistant Commissioner shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely :— V of 1908.

(*a*) enforcing the attendance of any person and examining him on oath or affirmation;

(*b*) compelling the production of documents and

(*c*) issuing commissions for the examination of witnesses;

and any proceeding before an Assessor or Assistant Commissioner under this Chapter shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 of the Indian Penal Code.

Power to call for information.

38. The Assessor or Assistant Commissioner may, for the purposes of this Act,— XLV of 1860.

(1) require any firm or Hindu undivided family to furnish him with a return of the partners in the firm, or the adult male members of the family, as the case may be, and of their addresses;

(2) require any person whom he has reason to believe to be a trustee, guardian, or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, or agent, and of their addresses;

(3) require any assessee to furnish particulars in respect of any payment made by him and shown in a return furnished or in any accounts or documents produced under section 23.

Power to inspect the register of members of any company.

39. The Assessor or Assistant Commissioner, or any person authorised in writing in this behalf by the Assessor or Assistant Commissioner, may inspect and, if necessary, take copies or cause copies to be taken of the register of members of any company or of any entry in such register.

CHAPTER V.

LIABILITY IN SPECIAL CASES.

Guardians, trustees and agents.

40. In the case of any guardian, trustee or agent of any person being a minor, lunatic or idiot or residing out of British India (all of which persons are hereinafter in this section included in the term beneficiary) being in receipt on behalf of such beneficiary of any income chargeable under this Act, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age, sound mind, or resident in British India, and in direct receipt of such income, and all the provisions of this Act shall apply accordingly.

Courts of Wards, etc.

41. In the case of income chargeable under this Act which is received by the Courts of Wards, the Administrator-General, the Official Trustees or by any receiver or manager (including any person whatever his designation who in fact manages property on behalf of another) appointed by or under any order of a Court, the tax shall be levied upon and recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager in the like manner and to the same amount as it would be leviable upon and recoverable from any person on whose behalf such income is received, and all the provisions of this Act shall apply accordingly.

Non-residents.

42. (*1*) In the case of any person residing out of British India, all profits or gains accuring or arising to such person, whether directly or indirectly, through or from any business connection or property in British India, or from interest on any security of the kinds mentioned in section 8, shall be deemed to be income accruing or arising within British India, and shall be chargeable to income-tax in the name of the agent of any such person, or, where there are more agents than one, in the name of such agent as the Commissioner shall determine, and such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income tax:

Provided that any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident person which are, or may at any time come, within British India.

(*2*) Where a person not resident in British India, and not being a British subject or a firm or company constituted within His Majesty's dominions or a branch thereof, carries on business with a person resident in British India, and it appears to the Assessor or the Assistant Commissioner, as the case may be, that owing to the close connection between the resident and the non-resident person and to the substantial control exercised by the non-resident over the resident, the course of business between those persons is so arranged, that the business done by the resident in pursuance of his connection with the non-resident produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the profits derived therefrom or which may reasonably be deemed to have been derived therefrom, shall be chargeable to income tax in the name of the resident person who shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax.

Agent to include persons treated as such.

43. Any person employed by or on behalf of a person residing out of Britsh India, or having any business connection with such person, upon whom the Assessor has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for the purposes of this Act, be deemed to be such agent:

Provided that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Assessor as to his liability.

CHAPTER VI.

RECOVERY OF TAX AND PENALTIES.

Tax when payable.

44. The amount of income-tax specified as payable in a notice of demand under section 28 or an order under section 31 or section 32, shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the notice or order, and any assessee failing so to pay shall be deemed to be in default, provided that, when an assessee has presented a petition under section 30, the Assessor may in his discretion treat the assessee as not being in default as long as such petition is undisposed of.

Mode and time of recovery.

45. (*1*) When an assessee is in default in making a payment of income-tax, the Assessor may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty.

(*2*) The Assessor may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land-revenue.

(*3*) In any area, with respect to which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the province, the assessor may proceed to recover the amount due by such process.

(*4*) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (*3*).

(*5*) If any assessee is in receipt of any income chargeable under the head "Salaries," the Assessor may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears due from such assessee, and such person shall comply with any such requisition and shall pay the sums so deducted to the credit of the Government of India, or as the Governor General in Council directs.

(*6*) The Local Government may direct, with respect to any specified area, that income-tax shall be recovered therein, with, and as an addition to, any municipal tax or local rate by the same person and in the same manner as the municipal tax or local rate is recovered.

(*7*) Save in accordance with the provisions of sub-section (*1*) of section 42, no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of the year in which any demand is made under this Act.

Recovery of penalties.

46. Any sum imposed by way of penalty under the provisions of sub-section (*2*) of section 26, section 33 of sub-section (*1*) of section 45, shall be recoverable in the manner provided in this Chapter for the recovery of arrears of tax.

CHAPTER VII.

REFUNDS.

Refunds.

47. (*1*) If a shareholder in a company who has received any dividend therefrom satisfies the Assessor that the rate of income-tax specified in the certificate received by him under section 21 in respect of such dividend is greater than the rate applicable to his total income of the year in which such dividend was received, he shall be entitled to a refund on the amount of such dividend (including the amount of the tax specified in the said certificate) calculated at the difference between those rates.

(*2*) If a partner in a firm satisfies the Assessor that the rate of income-tax applicable to his total income of the previous year was less than the rate at which the profits of the firm have been assessed, he shall be entitled to a refund on his share of those profits calculated at the difference between those rates.

(*3*) If the owner of a security from the interest on which, or any person from whose salary, income-tax has been deducted in accordance with the provisions of section 19 satisfies the Assessor that the rate of income-tax applicable to his total income of the previous year was less than the rate at which income-tax has been charged in making such deduction, he shall be entitled to a refund on the amount of interest or salary from which such deduction has been made calculated at the difference between those rates.

Relief in respect of United Kingdom income-tax.

48. (*1*) If any person who has paid Indian income-tax for any year on any part of his income proves to the satisfaction of the Assessor that he has paid United Kingdom income-tax for that year in respect of the same part of his income, and that the rate at which he was entitled to, and has obtained, relief under the provisions of section 27 of the Finance Act, 1920, is less than the Indian rate of tax charged in respect of that part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Indian rate of tax and the rate at which he was entitled to and obtained relief under that section: 10 and 11 Geo. V, Ch. 18.

Provided that the rate at which the refund is to be given shall not exceed one-half of the Indian rate of tax.

(*2*) In sub-section (*1*)—

(*a*) the expression "Indian income-tax" means income-tax and super-tax charged in accordance with the provisions of this Act;

(*b*) the expression "Indian rate of tax" means the amount of the Indian income-tax divided by the income on which it was charged;

(*c*) the expression "United Kingdom income-tax" means income-tax and super-tax chargeable in accordance with the provisions of the Income-tax Acts.

Limitation of claims for refund.

49. No claim to any refund under this Chapter shall be allowed, unless it is made within three years from the last day of the year to which the claim relates.

CHAPTER VIII.

OFFENCES AND PENALTIES.

Failure to make payments or deliver returns or statements or allow inspection.

50. If a person fails without reasonable cause or excuse—

(*a*) to deduct and pay any tax as required by section 19 or under sub-section (*5*) of section 45;

(*b*) to furnish a certificate required by sub-section (*9*) of section 19 or by section 21 to be furnished;

(*c*) to deliver or cause to be delivered in due time any of the returns or particulars mentioned in section 22, section 23, or section 38;

(*d*) to produce, or cause to be produced, on or before the date mentioned in any notice under sub-section (*3*) of section 23, such accounts and documents as are referred to in the notice;

(*e*) to grant inspection or allow copies to be taken in accordance with the provisions of section 39;

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

False statement in declaration.

51. If a person makes a statement in a verification mentioned in section 23 or sub-section (*3*) of section 30 which is false, and which is either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code. XLV of 1860.

Prosecution to be at instance of Assistant Commissioner.

52. (*1*) A person shall not be proceeded against for an offence under section 50 or section 51 except at the instance of the Assistant Commissioner.

(*2*) The Assistant Commissioner may stay any such proceeding or compound any such offence.

Disclosure of information by a public servant.

53. (*1*) All particulars contained in any statement made, return furnished or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof. I of 1872.

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine :

Provided that nothing in this section shall apply to the disclosure—

(a) of any such particulars for the purposes of of a prosecution under section 193 of the Indian Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act, or XLV of 1860.

(b) of any such particulars to any person acting in the execution of this Act, where it is necessary to disclose the same to him for the purpose of this Act, or

(c) of such facts, to an authorised officer of the United Kingdom, as may be necessary to enable relief to be given under section 27 of the Finance Act, 1920, or a refund to be given under section 48 of this Act: 10 and 11 Geo. V, Ch. 18.

Provided further that no prosecution shall be instituted under this section except with the previous sanction of the Commissioner.

CHAPTER IX.

SUPER-TAX.

Charge of super-tax.

54. In addition to the income-tax charged for any year, there shall be charged, levied and paid for that year in respect of the total income of any individual, Hindu undivided family or company, an additional duty of income-tax (in this Act referred to as super-tax) at the rate or rates laid down for that year by Act of the Indian Legislature.

Total income for purposes of super-tax.

55. (1) For the purposes of super-tax, the total income of any individual, Hindu undivided family or company shall be the total income as assessed for the purposes of income-tax.

(2) Where an assessment of total income has become final and conclusive for the purposes of income-tax for any year, the assessment shall also be final and conclusive for the purposes of super-tax for the same year.

Non-resident partners and shareholders.

56. (1) In the case of any assessee residing out of Britith India who is a member of a firm or partnership, and whose share of the profits from such firm or partnership is liable to super-tax; the remaining members of such firm or partnership who are resident in British India shall be jointly and severally liable to pay the super-tax due from the non-resident member.

(2) Where any assessee who is liable to pay super-tax on the amount of the dividends received by him from any company is residing out of British India, the principal officer of such company shall be liable to pay the super-tax due by such non-resident person in respect of the dividends received by him from the company.

(3) Where any person pays any tax under the provisions of this section on account of an assessee who is residing out of British India, credit shall be given therefor in determining the amount of the tax to be payable by any agent of such non-resident assessee under the provisions of sections 42 and 43.

Application of Act to super-tax.

57. (1) All the provisions of this Act, except sections 3, 14, 15, 17, 18, 19, 20, 22 and 47, shall apply, so far as may be, to the charge, assessment, collection and recovery of super-tax.

(2) Save as provided in section 56, super-tax shall be payable by the assessee direct.

CHAPTER X.

MISCELLANEOUS.

Power to make rules.

58. (1) The Governor General may make rules for carrying out the purposes of this Act and for the ascertainment and determination of any class of income. Such rules may be made for the whole of British India or for such part thereof as may be specified.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the manner in which, and the procedure by which, the income, profits and gains shall be arrived at in the case of—

(i) businesses part of the income of which is agricultural income;

(ii) insurance companies;

(iii) persons residing out of British India;

(b) prescribe the procedure to be followed on applications for refunds;

(c) provide for such arrangements with His Majesty's Government as may be necessary to enable the appropriate relief to be granted under section 27 of the Finance Act, 1920, or under section 48 of this Act; 10 and 11 Geo. V, Ch. 18.

(d) prescribe the year which for the purpose of relief under section 48 is to be taken as corresponding to the year of assessment for the purposes of section 27 of the Finance Act, 1920; and 10 and 11 Geo. V, Ch. 18.

(e) provide for any matter which by this Act is to be prescribed.

(3) Rules made under this section shall be published in the Gazette of India, and shall thereupon have effect as if enacted in this Act.

Power to make exemptions, etc.

59. The Governor General in Council may, by notification in the Gazette of India, make an exemption, reduction in rate or other modification, in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any class of persons.

Appearance by authorised representative.

60. Any assessee who is entitled or required to attend before any income-tax officer in connection with any proceedings under this Act, may attend either in person or by any person authorised by him in writing in this behalf.

Receipts.

61. When any money is paid under this Act to an Assessor, or is recovered thereunder by an Assessor or Collector, the Assessor or Collector, as the case may be, shall give a receipt for the same.

Service of notices.

62. A notice or requisition under this Act may be served on the person therein-named, either by post, or in any manner provided by the Code of Civil Procedure, 1908, for the service of summons. V of 1908.

Place of assessment.

63. (*1*) Where an assessee carries on business at any place, he shall be assessed at that place, or, where the business is carried on in more places than one, at his principal place of business.

(*2*) In all other cases, an assessee shall be assessed at the place where he resides.

(*3*) Where any question arises under this section as to the place of assessment, such question shall be determined by the Commissioner, or, where the question is between places in more provinces than one, by the Commissioners concerned, or, if they are not in agreement, by the Governor General in Council.

(*4*) Notwithstanding anything contained in this section, every Assessor shall have all the powers conferred by or under this Act on an Assessor in respect of any income, profits or gains accruing, or arising or received within the area for which he is appointed.

Delegation of powers of the Governor General in Council.

64. The Governor General in Council may, by notification in the Gazette of India, delegate all or any of his powers under this Act to such authority as may be specified in such notification.

Indemnity.

65. Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

Statement of case by Commissioner to High Court.

66. (*1*) If in the course of any assessment under this Act or any proceeding in connection therewith other than a proceeding under Chapter VIII, a question of law arises, the Commissioner may, either on his own motion or on reference from any income-tax officer subordinate to him, draw up a statement of the case and refer it with his own opinion thereon to the High Court.

(2) Within one month of the passing of an order under section 31, the assessee in respect of whom the order was passed may, by application accompanied by a fee of one hundred rupees, require the Commissioner to refer to the High Court any question of law arising out of such order, and the Commissioner shall, within one month of the receipt of such application, draw up a statement of the case and refer it with his own opinion thereon to the High Court.

(3) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Commissioner by whom it was stated to make such additions thereto or alterations therein as the Court may direct in that behalf.

(4) The High Court upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Commissioner by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Commissioner shall dispose of the case accordingly, or, if the case arose on a reference from any income-tax officer subordinate to him, shall forward a copy of such judgment to such officer who shall dispose of the case conformably to such judgment.

(5) Where a reference is made to the High Court on the application of an assessee, the costs shall be in the discretion of the Court.

(6) Notwithstanding that a reference has been made under this section to the High Court, income-tax shall be payable in accordance with the assessment, if any, made in the case:

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest, if any, as the Commissioner may allow.

(7) In this section the expression "question of law" means any question arising with reference to the interpretation of any of the provisions of this Act or of any rule made thereunder.

Bar of suits in Civil Court.

67. No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any Government officer for anything in good faith done or intended to be done under this Act.

Repeals.

68. The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof:

Provided that such repeal shall not affect the liability of any person to pay any sum due from him or any existing right of refund under any of the said enactments:

Provided, further, that the provisions of section 19 of the Indian Income-tax Act, 1918, shall apply, so far as may be, to all assessments made under that Act in the year ending on the thirty-first day of March, 1921, and where an adjustment shall be made under the provisions of section 19 of the said Act, the provisions of this Act shall apply as if such adjustment were an assessment made under this Act in the year in which the adjustment is made. VII of 1918.

THE SCHEDULE.

ENACTMENTS REPEALED.

(See section 68.)

1	2	3	4
Year.	No.	Short title.	Extent of Repeal.
1918	VII	The Indian Income-tax Act, 1918 ...	The whole.
1919	IV	The Indian Income-tax (Amendment) Act, 1919.	The whole.
"	XVIII	The Repealing and Amending Act, 1919.	So much of the First Schedule as relates to the Indian Income-tax Act, 1918.
1920	XVII	The Indian Income-tax (Amendment) Act, 1920.	The whole.
"	XIX	The Super-tax Act, 1920 ...	The whole.
"	XXXI	The Repealing and Amending Act, 1920.	So much of the First Schedule as relates to the Super-tax Act, 1920.
"	XLIV	The Indian Income-tax (Amendment No. 2) Act, 1920.	The whole.

STATEMENT OF OBJECTS AND REASONS.

This Bill, which is designed to take the place of the Indian Income-tax Act, 1918 (VII of 1918) and the Indian Super-tax Act, 1920 (XIX of 1920), is based on the report of a Committee appointed to make recommendations for the amendment of these Acts, more particularly regarding the assessment of mercantile profits. The report of the Committee was published for general information on the 28th July 1921. The Bill deals merely with the basis, the methods, and the machinery of assessment. The rates at which income-tax and super-tax will be charged will be determined by the annual Finance Act, and the Schedules in the present Acts have, therefore, been omitted from this Bill. The Bill is a purely administrative measure, the provisions of which will be set in motion by the passing of the annual Finance Bill.

Basis of assessment.

2. Under the present Act, tax at the rates fixed for any year is levied on the income of that year. A provisional assessment is first made on the income of the preceding year, and this assessment is subsequently adjusted and corrected when the income of the year in which the provisional assessment was made is ascertained. This system has given rise to numerous complaints. It involves the keeping of a running account between the Government and the tax-payer; where incomes are liable to sudden fluctuations, the tax-payer has to pay a heavy tax in a lean year and a light tax in a prosperous year; the working of the system is not clearly understood by many assessees, and has given rise to many misapprehensions. The Bill, therefore, provides for the tax at the rates sanctioned for any year being assessed finally on the income of the preceding year and for the abolition of the adjustment system. Since, however, the assessments made in the current year are provisional assessments, clause 68 of the Bill provides that all assessments made in the year 1921-22 shall be adjusted.

The only exception to this general rule is contained in clause 26 of the Bill, where, in order to guard against a possible loss of revenue owing to delay in making assessments on the profits of businesses that close down during the course of a financial or commercial year, it is provided that in

such cases, in addition to the assessment on the income of the preceding year, a further assessment may be made in the year in which a business, profession or vocation is closed down on the income of that year. The same clause imposes a statutory obligation on a person discontinuing a business, etc., to give timely notice to the income-tax authorities of his intention to discontinue the business.

3. Difficulties have been experienced in regard to the assessment of business profits owing to a High Court ruling that the word "income" in section 3 of the present Income-tax Act means income actually or constructively received, and that the use of the word in this sense in section 3 restricts and limits any interpretation to be placed upon the following sections of the Act which specify the different classes of income liable to the tax. If this interpretation were to be strictly followed, considerable inconvenience would be caused to assessees who keep their accounts not on the basis of sums actually received and sums actually paid out, but on the principles of mercantile accountancy by the preparation of a profit and loss account and the comparison of the value of the stock in hand at the beginning and the end of each year, since such assessees would be required to recast the whole of their accounts on a cash basis for income-tax returns. The provisions in clauses 3, 4 and 6 to 12 of the Bill have, therefore, been re-drafted in order to make it clear that the tax is chargeable not necessarily on "income" calculated on actual receipts and expenditure, but on the "income, profits or gains" as set out and defined in these clauses; while clause 13 makes it clear that no uniform method of accounting is prescribed for all tax-payers, and that every tax-payer may, so far as is possible, adopt such form and system of accounting as is best suited for his purposes. The only restrictions are that the method adopted must be one that clearly reflects the income of the assessee in respect of the fixed period of "the previous year," and that it is the one regularly employed by him for the purposes of his business. If the tax-payer does not regularly employ a method of accounting which clearly reflects his income for the "previous year," the computation will be made in such manner as in the opinion of the assessor does clearly reflect it. It will be the method of accounting adopted for or by the tax-payer, therefore, that will determine the period within which any item of gross income or any deduction therefrom is to be accounted for. For the same reasons the words "in respect of sums paid or, in the case of depreciation, debited" which occur in section 9 (*2*) of the present Act have been omitted, and sub-clause (*3*) of clause 10 of the Bill inserted so that there may be no doubt that the assessee may adopt either a cash basis or a mercantile accountancy basis as his regular system of keeping accounts.

4. As stated above assessable income must be computed with reference to a fixed period, which is known as the "previous year." The definition of the phrase "previous year" in section 2 (*11*) of the present Act has occasioned difficulties to assessees whose accounts year is not in accordance with that definition. That definition restricts the accounting period to a period of twelve calendar months, and merely gives the assessee an option of adopting a year of twelve calendar months ending on a date other than the 31st day of March. In the case of certain communities the commercial year is not necessarily a calendar year, but is a period which, expressed in calendar months, varies from year to year, and in one year may be slightly over and in another year slightly under twelve months. Again, any year which is adopted in place of the financial year must under the present definition terminate at some period within the previous financial year, and there are numerous cases where the commercial year terminates in the month of April so that the returns and accounts on which the assessment is based in such cases relate to a period more than twelve months prior to the date of assessment. Clause 2 (*11*) (*b*) provides for such cases, so that either the Government of India or the head of the income-tax department in a province, if authorised by the Government of India, may determine as the "previous year" a commercial year which may be slightly over or slightly under twelve months. It is intended that no commercial year should be fixed terminating later than one month after the end of the previous financial year.

5. The method of calculating taxable income which is prescribed in sections 12 to 14A of the present Act has given rise to various inequalities in assessment. "Taxable income" under the present Act means income assessed directly on the assessee, that is, his income from sources other than

the dividends of a company or the share in the profits of a firm, so that, an assessee who has income either from a firm or from the profits of a company and has in addition other income which is assessed to income-tax directly on him, pays no income-tax on that other income unless it is in excess of Rs 2,000, while *per contra* he gets no deduction on account of insurance premia set against the income that he derives from a company or a firm. Clauses 3 and 14 to 16 of the Bill, therefore, provide that the "total income" of an assessee shall determine his liability to the tax as well as the rate at which the tax shall be assessed on every portion of that income and also permit the deduction on account of insurance premia in the case of all income from whatever source derived. A further amendment in these clauses has been made in order to provide that no account shall be taken of any income derived from a Hindu undivided family by an individual member of the family in determining the rate at which that individual member shall pay income-tax on his separate income.

6. Under the wording of section 14 of the present Act it is the aggregate amount chargeable under each head that determines taxable income, so that when a person has carried on a trade or profession and also has an income from house property, if he has actually incurred a loss in the trade, the figure adopted under that head in arriving at the aggregate amount of income chargeable to income-tax is nil and not a *minus* sum. In clause 25 of the Bill it is proposed to amend this provision so that a loss under one head of income may be charged against profits under another.

7. Another difficulty complained of by commercial assessees is in connection with the distinction in the present Act between registered and unregistered firms. This distinction is therefore abolished in this Bill, under the provisions of which the profits of partnerships as such will be assessed at the highest rate, it being left to the assessor in each case to decide whether a partnership exists or not from the papers or accounts produced by the assessee. While the liability for the income-tax payable on account of the profits of a firm or partnership will remain upon the partnership, in order to avoid unnecessary refunds departmental instructions will be issued that where individual partners file their statements of personal income at the same time as the statement of the partnership profits, the assessor will merely have to ascertain whether the whole of the partnership profits are accounted for in these personal statements in which event he would charge the partners direct at the appropriate rate. The liability of the partnership for the tax assessed on the partnership profits would however remain unless and until the tax assessed on the individual partners has been recovered from them.

The super-tax on unregistered firms it is proposed to abolish, and super-tax will then be levied on each individual partner on his total income. In order to provide, however, for the recovery of super-tax from the share of profits of partners in a firm who are not resident in British India, provision is made in clause 56 that the resident partners or representatives of such firms shall pay the super-tax due on any non-resident partner's share of the profits, and a similar provision is made in the same clause regarding payments to non-resident shareholders of a company who are liable to super-tax. This liability will merely attach to cases where the amount of profits or dividends payable to a non-resident partner or shareholder is in itself liable to super-tax on the assumption that it represents the whole income of such non-resident partner or shareholder. It does not appear feasible to insert any provision requiring the resident partner or representative of a firm to obtain from the non-resident partner a statement of any other income that may accrue to him in British India. In cases where there is reason to believe that there is such other income it will be necessary to rely on the provisions of clauses 42 and 43 of the Bill.

8. Difficulties have been experienced regarding the distribution of the tax in cases where there has been a change in the proprietorship of a business or profession. In clause 27 it is proposed to remove these difficulties by providing that the liability for the tax based on the income of the preceding year attaches to the business or profession itself and that the new owners are liable for the tax, even although they were not owners for the whole of the time during which the profits on which the assessment is made were earned. This will apply whether the business or profession is owned by a single individual or by partners or by a company.

Machinery of assessment.

9. The income-tax authorities under the present law are the "Chief Revenue Authority," the "Commissioner," and the "Collector," designations adopted at a time when the whole of the income-tax work was done by the ordinary revenue staff in addition to their other duties. Owing to the increased employment of a whole-time staff for income-tax work, the use of these designations has given rise to considerable confusion, and it is proposed in the Bill that the income-tax authorities should have a nomenclature distinct from that of the land-revenue authorities. Chapter II of the Bill prescribes that the head of the income-tax department of a province shall be known as the Commissioner of Income-tax, the appellate authority as the Assistant Commissioner of Income-tax, and the assessing authority as the Assessor. The appointment of the income-tax staff is under the present Act vested in Local Governments. Since under rule 3 read with item 52 of Schedule I of the Devolution Rules made under the Government of India Act, "matters pertaining to a Central subject in respect of which powers have been conferred by or under any law upon a Local Government" are a provincial subject, no question can be asked or discussion raised regarding such staff in the Central Legislature, but only in the Legislative Council of the province concerned. As the whole cost of the income-tax staff will in future be met by the Government of India, it is obviously desirable that all questions regarding such expenditure should be ventilated in the Central Legislature. References to the powers of the Local Governments are therefore omitted from the Bill, except that clause 5 (*2*) provides that the Commissioner of Income-tax in each province shall be appointed by the Government of India after consideration of any representations made by the Local Government. While the appointment and dismissal of the rest of the staff is vested by clause 5 (*3*) of the Bill in the Commissioner of each province "subject to the control of the Governor-General in Council," it is proposed to utilise the agency of the Local Government for the exercise of that control and to provide in the agency rules that such staff shall be appointed and dismissed by the Commissioner of Income-tax subject to the approval of the Local Government. Although the Local Governments will meet no share of the cost of the staff, the smooth and efficient working of the department will be a matter of no little concern to Local Governments; and it is considered that, though relieved of connection with the technical operations of the staff, they should have that measure of control which is indicated in the above proposals.

While the income-tax staff will as a rule be appointed in provincial cadres, there are certain classes of cases for which it may be advisable that assessments should be made by an all-India staff. Such for example are the cases of military officers and of officers of other departments serving directly under the Government of India who are liable to transfer throughout India. Suggestions have also been made that the assessment in special cases like railway companies might be made by an officer dealing with all such cases for the whole of India. In clause 5 (*4*) provision is made for the appointment of officers in such cases.

10. Hitherto, the making of rules under the Acts, the interpretation of such rules and the general administration of the Acts have been left to Local Governments. This has led to a diversity both in the provisions of the rules themselves and in the interpretation of those provisions, where similar, in different provinces, and clause 58 of the Bill therefore provides that all rules shall be made by the Government of India. Since the technical administration of the tax will be in the hands of the Government of India, clause 64 of the Bill provides that the Government of India may establish an authority to which it may delegate all or any of its powers under the Bill.

11. Under section 51 of the present Act a reference on a question of law may be made to the High Court only if the Chief Revenue Authority sees fit. The Chief Revenue Authority is not required to make any such reference on the application of an assessee if it is satisfied that the application is frivolous or that a reference is unnecessary. In clause 66 of the Bill it is proposed that the Commissioner of the Income-tax should no longer have power to withhold a reference on these grounds, but should be required to state a case to the High Court on the application of an assessee. In order to provide against frivolous and unnecessary applications, the

clause contains a provision that every such application shall be accompanied by a fee of Rs. 100. In order to safeguard the revenue, the clause further provides that the fact that a case has been stated to the High Court shall in no way stop the collection of the tax from the assessee. An application for such reference may only be made after an appeal to the appellate income-tax authority has been disposed of. The head of the income-tax department retains the existing power to state a case to the High Court on his own motion.

12. Clause 53 amplifies the provisions of section 42 of the present Act in order to make more stringent the provisions relating to the disclosure of particulars regarding income-tax assessments. The present Act merely penalises the disclosure by a public servant of particulars contained in any statement or return furnished under the Act. Clause 53 further penalises the disclosure of any particulars contained in any accounts or documents produced under the Act or in any evidence given or deposition made in the course of proceedings under the Act or in any assessment record, and debars the Courts from requiring public servants to produce income-tax records or to give evidence respecting the same.

Procedure in regard to assessments and refunds.

13. The only extension of the system of collection at the source (apart from the case mentioned in paragraph 7 above) is in connection with the tax on salaries. While the present Act makes it obligatory on persons paying "salaries" to the employees of Government, a local authority, a company or other public body or association to deduct income-tax from such salaries at the time of payment, private employers are not required to do so unless they have entered into an agreement with the income-tax authorities. Clauses 7 and 19 (*2*) of the Bill extend the statutory obligation to all private employers.

14. Clauses 23, 24, 29, 30 and 60 contain several amendments designed to simplify the procedure in connection with assessments. The present Act, for example, makes it obligatory on the Collector to call for accounts where he considers that the return made by an assessee is in any way incorrect even although he may not consider it necessary to call for any accounts and may wish to dispose of a case by a personal interview with the assessee or his representative. Further, the Collector is at present debarred from calling for accounts unless he first of all declares that a statement is incorrect or incomplete. Again, the Collector is compelled under the present Act to require the personal attendance of an assessee, while one section of the Act provides that an assessee may only be represented by a pleader before the Chief Revenue Authority if he does not appear in person. The Bill provides that the assessor shall not be required to call for accounts whether he considers it necessary or not, but may call for accounts whenever he considers it necessary, that an assessee shall not be required to attend in person or by a pleader, but may at any stage of the assessment proceedings either attend in person or be represented by a person duly authorised by him in writing.

15. Under the present Act a person who has failed to make a return or failed to comply with the terms of a notice under section 18 to produce accounts, has no power to appeal against an order of assessment unless he satisfies the appellate authority that he has not wilfully or knowingly failed to make a return or to comply with the terms of a notice. The result of this procedure is that the assessee has to go to the appellate authority and obtain an order for the re-opening of the case. In clauses 29 and 30 it is proposed to alter this procedure and to provide that the assessee in such cases may, within one month after the service on him of a notice of demand, go to the assessor direct and, if he satisfies him that he was prevented by sufficient cause from making a return, or that he did not have a reasonable opportunity to comply with the terms of a notice, the assessor may cancel the assessment and proceed to make a fresh assessment.

16. Under the provisions of the present Act the assessment or re-assessment of income which has escaped taxation or has been taxed at too low a rate, the correction of a mistake, or an application for a refund must be made within one year from the end of the year to which the claim relates. This period has been found to be insufficient, and it is proposed in clauses 34, 35 and 49 of the Bill to extend the period to three years.

17. In order to simplify the procedure in connection with refunds, clauses 19 (*9*) and 21 make it obligatory upon persons deducting income-tax from interest on securities to issue to all security holders and upon companies distributing dividends to issue to shareholders, a certificate specifying the amount of tax deducted from the interest or paid or payable on the profits of the company. Rules relating to refunds at present are made by Local Governments and apply only to the provinces in respect of which they have been made. Further they usually provide that income-tax may only be refunded in the district in which the tax was actually paid. As stated in paragraph 10, it is proposed that all rules should be made by the Government of India, and in the refund rules it is proposed to provide that an assessee on production of the certificate aforesaid will be entitled to get a refund from the assessor of the district in which he is assessed, or of the district in which he resides if he is not assessed.

Relief from double income-tax.

18. Clause 48 of the Bill contains a provision for relief from double income-tax. At a conference between representatives of the Home Government and of the Dominions and of India an agreement was arrived at to the following effect: That in respect of income taxed both in the United Kingdom and in India there should be deducted from the appropriate rate of the United Kingdom income-tax (including super-tax) the whole of the rate of the Indian income-tax charged in respect of the same income, subject to the limitation that in no case should the maximum rate of relief given by the United Kingdom exceed one-half of the rate of the United Kingdom income-tax (including super-tax) to which the individual tax-payer might be liable and that any further relief necessary in order to confer on the tax-payer relief amounting in all to the lower of the two taxes (United Kingdom and India) should be given by India. That is to say, the proposal is that where income is liable to taxation both in the United Kingdom and in India it should pay only at the highest rate leviable in either country. These proposals have been accepted by the Government of the United Kingdom and are embodied in section 27 of the Finance Act of 1920. Under that provision a person whose income is assessed both in the United Kingdom and in India is entitled to claim from the authorities of the United Kingdom a refund or rebate of the the rate levied in India up to one-half of the English rate. Clause 48 of the Bill, therefore, provides that where any further relief is to be given in order to secure that such a person shall not pay a higher rate than the highest rate in either country, such relief will be given by India, subject to the limitation that the relief given in India shall not exceed half of the rate of income-tax and super-tax combined. At present the Indian rates of income-tax and super-tax combined are less than half of the rates in the United Kingdom, and therefore no loss will at the outset be incurred by Indian revenues from this arrangement. Loss will only be incurred where, owing to any alteration in the rates, the Indian rate is more than half the English rate, and the loss would merely be the amount by which the Indian rate exceeds half the English rate.

19. The Bill contains a number of other alterations in and additions to the present law. These are, where comment appears to be necessary, discussed in the Notes on Clauses appended to this statement.

SIMLA,
The 16th September 1921.

W. M. HAILEY.

NOTES ON CLAUSES.

Clause 4 (2).—The tax has been evaded in cases of income arising or accruing out of British India and received in British India by bringing in the said income at intervals and claiming that as such income is not received in British India in the year in which it arises or accrues out of British India, it is, when brought into British India, not income but accumulated profits or savings or capital. This new sub-clause has been inserted to prevent such evasion.

Clause 4 (3).—Section 3 (2) (*vii*) of the present Act (viz., 'Legacies') has been omitted from the Bill, as it has been claimed that annuities granted under a will are exempt under this sub-clause. Lump sum annuities are covered by sub-clause (*vii*) of the Bill. Sub-clause (*ix*) of section 3 (2) of the present Act (viz., "Any perquisite or benefit which is neither money nor reasonably capable of being converted into money") has been omitted as the existence of this provision makes it impossible under the present law to assess to income-tax rent-free residences in cases where the assessee has not the power to sub-let, while rent-free residences are liable to the tax where the assessee has the power to sub-let.

Clause 9.—A change is made in this clause for the purpose of providing for the assessment of premises let for business and also for the assessment of such premises as wharves, millyards, etc.

Clause 10 (2) (vi).—This clause provides that the rates of depreciation allowances approved of by the Government of India shall be fixed rates and not, as at present, maxima rates and shall apply to the whole of India. It further provides that depreciation at these rates shall be allowed every year when there are sufficient profits, and only the excess of the depreciation allowance over the profits shall be carried forward from year to year until absorbed, and that this practice must be followed whether the depreciation allowance is adjusted in the accounts of the assessee or not and irrespective of the amounts shown in the accounts.

Clause 16 (2).—This sub-clause and sub-clause (*4*) of clause 19 have been added in order to make it clear that where income-tax is deducted at the source, it is the gross amount of the income (including the tax deducted) which is to be taken into account in determining the rate at which an assessee should be liable to income-tax on the rest of his income and also his income for liability to super-tax.

Clause 19 (2).—An addition has been made here in order to allow of the rectification by the person deducting income-tax from salary of mistakes in any previous deduction.

Clause 31.—The words "and fixing such time for payment as he thinks fit" in section 22 of the present Act have been omitted, as they have given rise to confusion. Clause 44 of the Bill gives power to the assessor to determine the dates for payment.

Clause 33.—The provision of section 24 of the Act have been amended in order to make it clear that the penalty imposed under this sub-clause is not income-tax.

Clause 34.—An amendment has been made in order to make it clear that all that the assessor is required to do within the statutory period is to institute proceedings for the assessment or re-assessment.

Clause 35.—Amendments have been made in order to allow the assessor to rectify mistakes of his own motion as well as on the application of the assessee, to provide that he shall rectify his mistake when it is brought to his notice by an assessee, and to make it clear that the word "mistake" refers only to a mistake which is patent from the facts or documents which were before the assessor when he passed the original assessment order, and that this clause does not confer a general power of review or authorise any assessee to introduce new facts.

Clause 36.—This clause has been inserted, as it is proposed to eliminate fractions of an anna from public accounts.

Clause 38 (3)—This is a new provision empowering the assessor to require information to be given regarding specific payments shown in the accounts of an assessee where there is reason to believe that such payments will become liable to income-tax in the hands of the recipients.

Clause 42.—An addition has been made in sub-clause (*1*) in order to make it clear that a non-resident is liable to income-tax on receipts from property and interest on securities, as well as on receipts from business, and also that in cases where a non-resident deals direct with separate agents of separate branches in British India, the head of the income-tax department of a province shall have power to require the accounts of all the different branches to be amalgamated in order to avoid a loss of revenue.

Clause 45.—Amendments have been made in order to differentiate between the power to impose and the power to collect a penalty and also in order to provide for the collection of income-tax, by a separate income-tax agency, in the same way as municipal dues are collected, where a separate income-tax agency is entertained for this purpose and for the collection of income-tax through the revenue authorities in other cases.

Clause 47.—Changes have been made in sub-clause (*2*) of this clause for the purpose of making it clear that it is the amount of profits to which a partner is entitled, and not the amount of profits which he has actually removed from the possession of the firm which determines his personal liability to income-tax and his claim to a refund, while in sub-clause (*3*) an addition has been made to provide for the refund of income-tax to persons from whose salary income-tax has been deducted at too high a rate.

Clause 50 (d).—The provision in section 39 (*d*) of the present Act that a person who fails to attend when required by a notice under clause 24 commits an offence has been omitted.

Clause 52.—In view of the appointment of special income-tax staff, the power to sanction prosecutions has been removed from the assessor and conferred upon the appellate authority.

Chapter IX.—No change is proposed regarding the method of assessing and collecting super-tax other than the change in regard to unregistered firms referred to in paragraph 7 of the statement. The present Acts make the tax chargeable upon the "taxable income," but the definition of "taxable income" in section 3 of the Super-tax Act of 1920 is a somewhat confusing one and actually corresponds exactly to the definition of 'total income' in clause 16 of the Bill. It is therefore provided that the charge shall be on total income, and that the determination of total income for the purposes of income-tax shall be final and conclusive for the purposes of super-tax.

Clause 58.—Sub-clause (*d*) of section 43 (*2*) of the present Act which provides for rules being made to "provide for a system of composition of assessments and prescribe the conditions under which the assessor may enter into compositions with assessees as to their assessment" has been omitted as unnecessary.

Clause 62.—A slight change has been made in order to make it clear that a notice may be served in any of the manners provided for in the Code of Civil Procedure for the service of a summons

Clause 63.—This clause has been slightly amplified in order to reproduce the provisions in section 2 (*5*) of the present Act as to the place at which an assessee shall be assessed, and also in order to show that the reference to the Government of India is not obligatory under this clause, but need only be made where the heads of the department in the different provinces concerned are unable to come to an agreement.

Sub-clause (*4*) has been inserted in order to permit of inquiries being made into the profits of a branch business by the assessor of the place in which the branch is situated.

H. MONCRIEFF SMITH,

Secretary to the Government of India.

The Calcutta Gazette

WEDNESDAY, DECEMBER 7, 1921.

PART VI.

Bills introduced in the Council of State and Legislative Assembly, Reports of Select Committees presented to the Council and Assembly and Bills published under Rule 18 of the Indian Legislative Rules.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Report of the Joint Committee on the Bill further to amend the Indian Factories Act, 1911, was presented to the Legislative Assembly on the 26th September 1921 :—

WE, the undersigned, Members of the Joint Committee to which the Bill further to amend the Indian Factories Act, 1911, was referred, have considered the Bill and the papers noted in the margin, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

Paper No. I :

Letter from the Managing Agent, Morabadad Spinning and Weaving Mills Company, dated 28th May 1921, and enclosure.

Letter from the United Provinces Chamber of Commerce, dated 4th July 1921.

Extract of letter from the Government of Bihar and Orissa, dated 7th July 1921, and enclosures.

Extracts of letter from the Government of Assam, dated 11th July 1921.

Paper No. II :

Extract from letter from the Government of Bombay, dated 1st August 1921, and enclosures.

Extract from letter from the Government of Burma, dated 21st July 1921.

Letter from the Secretary, Indian Tea Association, Calcutta, dated 6th August 1921.

Paper No. III :

Letter from the Indian Jute Mills Association, Calcutta, dated 27th August 1921.

Letter from the Chief Commissioner, Delhi, dated 30th August 1921, and enclosures.

Paper No. IV :

Letter from the Government of Bengal, dated 7th September 1921, and enclosure.

Under the provisions of rule 42 of the Indian Legislative Rules, the Committee elected the Honourable Khan Bahadur Mian Muhammad Shafi to act as its Chairman. He was, however, prevented from attending after the first meeting, and the Committee elected the Honourable Mr. H. Moncrieff Smith as Chairman for subsequent meetings

Clause 1.—We propose that the coming into force of the Act should be deferred till the first day of July 1922. Not only will all persons concerned thus have reasonable notice of the amendments which are being made in the law, but we understand also that, from every point of view, the date proposed for introducing changes in the working of factories will be eminently convenient. We observe that the same course was adopted when the present Act was passed.

Clause 2 (a).—We decided by a majority to retain this clause. We also discussed the possibility of introducing a "young persons" class, but we considered that this was not feasible. Even if it were within our powers, we think that the numerous amendments which would be necessary in the Bill should not be made until opinions have been elicited thereon.

Clause 4.—The amendment we have made in this clause is intended to provide that a certifying surgeon shall, if so required, give his reasons in writing for the revocation of a certificate, as well as for the refusal to grant one.

Clause 6.—We have made an addition to the new section introduced by this clause, which will enable re-examination of a child to be made by a registered practitioner authorised in that behalf by a certifying surgeon.

Clause 9.—In view of the opinions expressed on this clause, which require measures to be carried out within a period which was not to be more than seven days from the date of the notice, we have provided that the period to be fixed shall be in the discretion of the Inspector issuing the notice.

Clause 12.—It was put to us that in many factories it would be convenient to enable the period of rest to be taken in two instalments, and we have, therefore, provided that this should be done at the request of the employees concerned. Further, in view of the provision for an eleven hours' day, and for the purpose of avoiding split shifts, we propose that the period of rest for children should be obligatory in the case of those working more than five and a half hours instead of only five hours.

Clause 13.—We were given to understand that the objection to section 22 of the Act, as it stands, is that it made it possible for a person to be employed for thirteen consecutive days without a holiday. The amendment which we now propose to section 22 meets this objection. It also meets the various objections which have been raised to the section as it stands in the Bill. The Bill did not appear to take account of the various important religious holidays which do not necessarily fall on any particular day in the week.

Clause 14.—In section 23 we have provided for the substitution of "twelve" for "nine" from the commencement of the Act, as it is not now intended to bring the Act into force before the first day of July 1922. We are in fact making no change in the intention, except that we are dispensing with the short transitory period during which children of 11 might be employed.

Clause 15.—The amendment proposed by the Bill in section 25 would prohibit the employment of an adult male in two factories on the same day, and neither the Act nor the Bill provides for any exemption in such cases. We think that there are many cases in which it would be reasonable to provide that a skilled workman should be permitted to attend to work in different factories on the same day, and we propose, therefore, that power should be taken to make rules laying down the circumstances in which this may be permitted. We have, therefore, provided in separate clauses for the amendments of sections 25 and 26, and have re-numbered the clauses of the Bill down to clause 26.

Clause 16 (now clause 17).—We have limited the working day to eleven

Clause 17 (now clause 18).—The scheme of the Bill is obviously to bring all the exceptions together into one Chapter. We have examined the matter at considerable length, particularly with reference to the changes which it is proposed to make in the law. We note in particular that the exemptions provided before by sections 21 (*2*) (*c*) and 22 (*2*) of the Act have disappeared. We think that there should at least be a power to exempt, even if an absolute exemption is not maintained, and we think also that, in the case of urgent repairs done within the factory itself, it would be reasonable to give a power to exempt from the provisions which insist on periodical rests and weekly holidays. We have, therefore, provided for this in a new sub-section (*3*) to section 30 as amended. We feel, however, that there should be safeguards, and we provide that rules may be made to have the effect of attaching conditions to the exemption. We have also provided for an exemption from the provisions of section 21 in the case of factories where continuous production is necessary for technical reasons. We think that with these changes all the necessary exemptions, which are contained in the Schedules to the Act, will be sufficiently provided for in the Act as we propose to amend it.

Clause 20 (now clause 21).—We are of opinion that the period of seven days provided by the Bill within which copies of notices are to be sent to the Inspector is insufficient, and we propose to restore the period to one month as laid down in section 36 of the Act as it stands.

Clauses 24 and 25 (now clauses 25 and 26).—We consider that the maximum fines proposed by the Bill are unnecessarily high, and we have substituted "five hundred" in each case for "one thousand."

Clause 27.—We are not convinced of the necessity for raising the fine in this case, and we have, therefore, omitted the clause. We have rejected a proposal to impose a penalty as in section 138 of the English Act on parents and guardians of children employed in contravention of the provisions of the Act.

Clause 30.—We have added orders under the new sections 18A and 19A to those orders which are appealable, but we have provided that the stay of execution contemplated by the Bill shall not apply in the case of orders issued under section 19A.

In the new clauses 31 and 32 of the Bill, we have provided for certain consequential amendments which appear to have been overlooked. The remaining changes made in the Bill may be regarded as matters of pure drafting.

The Committee considered numerous proposals for further amendments of the law. It was suggested that a provision should be introduced defining the precincts of a factory on the lines of the proviso to section 147 (*1*) of the Factory and Workshop Act, 1901; also that section 46 of the Act should be left unamended. We rejected these proposals by a majority of five to four.

3. The Bill was published in the Gazette of India, dated 5th March 1921.

4. We think that the Bill has not been so altered as to require re-publication, and we recommend that it be passed as now amended.

ALEX. R. MURRAY.*
VITHALDAS D. THACKERSEY.*
M. B. DADABHOY.*
BISHAMBHARNATH.
V. G. KALE.
JAMNADAS DWARKADAS.
A. C. CHATTERJEE.
H. MONCRIEFF SMITH.
LALUBHAI SAMALDAS.*
N. M. JOSHI.*
T. V. SESHAGIRI AYYAR.*
B. N. SARMA.*

The 24th September, 1921.

* Subject to Minutes of Dissent.

MINUTE OF DISSENT.

While signing the Report we reserve the right when the Bill comes before the Legislature to move amendments for the deletion of clauses 2 (*a*) and 28 of the Bill, and the retention of sections 2 (*1*) and 46 of the existing Act, and also for the provision of a definition of the "precincts" of a factory on the lines of the English Statute.

ALEX. R. MURRAY.
VITHALDAS D. THACKERSEY.
M. B. DADABHOY.

The 24th September, 1921.

MINUTE OF DISSENT.

Clause 2 (*a*).—I wanted young persons class to be introduced in the Bill. As however it was not thought advisable to introduce such a vital alteration at this stage, the matter had to be dropped. I still think that the best solution of the difficulty is the creation of young persons class.

I am opinion that a medical graduate of all Indian Universities should be empowered to examine children.

I want section 46 of the present Act to be kept as it is, or, as an alternative, to have the definition of precincts on the lines of the English Statute.

LALUBHAI SAMALDAS.

The 24th September, 1921.

MINUTE OF DISSENT.

I generally agree in the conclusions reached by my Colleagues in the Joint Committee subject to the reservations contained in this minute.

In clause 12, I do not agree with the views of the majority that the period of statutory mid-day rest should be split up at all. I prefer that the workmen should have the full hour's rest in one unbroken period. This would not prevent the employer and the employees agreeing to have additional period of rest at any time convenient to them.

In clause 14 (*2*) I propose to substitute the word five for six. As approved by the Committee the maximum number of hours for adults is fixed at eleven and so the maximum number of hours per day for children cannot be fixed higher than five and a half. I am inclined to think that my Colleagues failed to notice the change of twelve to eleven hours for adults which would have necessitated the fixing of the period for children at five and a half hours.

Regarding clause 15, in my opinion, there is no need for making a special provision for enabling employees to work in the different factories during the same day under special circumstances.

In clause 17, relating to section 27, I would substitute 54 for 60 hours. In the same clause relating to section 28, I would substitute ten for eleven.

In regard to the grant of exemptions under clause 18, I am of opinion that a proviso should be included that Local Governments should not give exemption regarding the weekly hours of work in such a way that the average weekly hours during the period to be fixed by the Local Government shall exceed the statutory weekly hours fixed in the Act.

I am also of opinion that Local Governments should not be empowered to give exemption to employers to get work from them for more than twelve hours in a day.

Similarly, I would also restrict the power of the Local Government to exempt from the statutory weekly rest in such a way that the employee should have compensatory holidays within a certain period.

As regards section 32 regarding the plantation factories, I am of opinion that no case has been made out for retaining the section. I think it should be omitted.

N. M. JOSHI.

The 24th September 1921.

MINUTE OF DISSENT.

I agree generally with Mr. Joshi. I am not inclined to agree with him that the period of rest should not be spilt up. This is only an enabling power, and I think that the workmen would prefer this arrangement to the one originally embodied in the Bill.

I agree with Mr. Joshi as regards clause 18 that the local Government's power to make rules should not be unlimited, and that their power to exempt should not be for more than one hour in excess of the statutory working hours in a day.

I agree with Mr. Joshi *re* his objection to section 32 included in clause 18. Power has already been given to grant exemption regarding the weekly rest day. In my opinion the coolie employed in a tea estate is as much entitled to a period of rest during the working hours of a day as workmen elsewhere. There is no justification for compelling these coolies to work continuously for eleven hours in a day.

T. V. SESHAGIRI AYYAR.

The 24th September 1921.

[As amended by the Joint Committee.]

[Words printed in italics indicate the amendments suggested by the Committee.]

A

BILL

further to amend the Indian Factories Act, 1911.

WHEREAS it is expedient further to amend the Indian Factories Act, 1911; it is hereby enacted as follows:— XII of 1911.

Short title, extent *and commencement.*

1. (*1*) This Act may be called the Indian Factories (Amendment) Act 192 .

(*2*) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas.

(*3*) *It shall come into force on the first day of July, 1922.*

Amendment of section 2, Act XII of 1911.

2. In section 2 of the Indian Factories Act, 1911 (hereinafter referred to as the said Act),— XII of 1911.

(*a*) in clause (*1*) for the word "fourteen" the word "fifteen" shall be substituted;

(*b*) for clause (*3*) the following clause shall be substituted, namely:—

"(*3*) 'factory' means—

(*a*) any premises wherein, or within the precincts of which, on any one day in the year not less than twenty persons are simultaneously employed and steam, water or other mechanical power or electrical power is used in aid of any process for, or incidental to, making, altering, repairing, ornamenting, finishing or otherwise adapting for use, for transport or for sale any article or part of an article; or

(*b*) any premises wherein, or within the precincts of which, on any one day in the year not less than ten persons are simultaneously employed and any such process is carried on, whether any such power is used in aid thereof or not which have been declared by the Local Government by notification in the local official Gazette to be a factory;

A declaration under clause (*b*) may be made in respect of any class of premises, or in respect of any particular premises;"

(*c*) for clauses (*8*) *and* (*9*), the following clause shall be substituted, namely:—

"(8) 'week' means the period between midnight on Saturday night and midnight on the succeeding Saturday night."

Substitution of new section for section 3, Act XII of 1911. Application of Act.

3. For section 3 of the said Act, the following section shall be substituted, namely:—

"3. Nothing in this Act shall apply to any mine subject to the operation of the Indian Mines Act, 1901." VII of 1901.

Amendment of section 7, Act XII of 1911.

4. *In section 7 of the said Act, for sub-section (2), the following sub-sections shall be substituted, namely :—*

"(2) A certifying surgeon may revoke any certificate granted to a child under sub-section (1) if, in his opinion, the child is no longer fit for employment in a factory.

(3) Where a certifying surgeon refuses to certify that a person is fit for employment in a factory or revokes a certificate granted to a child in this behalf, he shall, if required by such person or child, or by the parent or guardian of such person or child, or by the manager of the factory in which such person or child desires to be employed, state in writing his reasons for such a refusal or revocation."

Amendment of section 8, Act XII of 1911.

5. In section 8 of the said Act,—

(*a*) for the words "any person practising medicine or surgery," the words "any registered practitioner" shall be substituted ;

(*b*) in the proviso for the words "after the first date" to the end of the section, the words "for a period of more than three months" shall be substituted ;

(*c*) after the proviso, the following *Explanation* shall be added, namely :—

"*Explanation.*—In this section the expression 'registered practitioner' means any person registered under the Medical Act, 1858, or any Act amending the same or under any Act of any Legislature in in British India providing for the maintenance of a register of medical practitioners, and includes, in any area where no such last-mentioned Act is in force, any person declared by the Local Government, by notification in the local official Gazette, to be a registered practitioner for the purposes of this section." 21 & 22 Vict, c. 90.

Insertion of new section 8A in Act XII of 1911.
Compulsory medical examination.

6. After section 8 in Chapter II of the said Act, the following section shall be inserted, namely :—

"8A. Where an Inspector is of opinion that a child employed in a factory is no longer fit for employment, he may serve on the manager of the factory a notice requiring that such child shall cease to be employed until he has been re-examined by a certifying surgeon *or by a registered practitioner authorised by a certifying surgeon in this behalf.*"

Amendment of section 9, Act XII of 1911.

7. To section 9 of the said Act, the following clause shall be added, namely :—

"(*d*) the atmosphere shall not be rendered so humid by artificial means as to be injurious to the health of the persons employed therein."

Amendment of section 18, Act XII of 1911.

8. In clause (*c*) of sub-section (*1*) of section 18 of the said Act, after the word "machinery," the words "and electrical fittings including live wires and switches" shall be inserted.

Insertion of new section 18A in Act XII of 1911.

Repairs to buildings or machinery.

9. After section 18 of the said Act, the following section shall be inserted, namely :—

"18A. (*1*) If an Inspector is of opinion—

(*a*) that any factory or part thereof is in such a condition as to be dangerous to human life or safety, or

(*b*) that any part of the ways, works, machinery or plant used in a factory is in such a condition that it cannot be used without danger to human life or safety,

he may serve on the manager of the factory an order in writing, specifying the measures which he considers necessary for removing the danger, and requiring him to carry them out before *such date as may be specified therein.*

(*2*) If in the opinion of the Inspector, the use of any part of the ways, works, machinery or plant in a factory involves imminent danger to human life, he may serve on the manager of the factory an order in writing prohibiting the use thereof until it is duly repaired or altered."

Insertion of new sections 19A and 19B in Act XII of 1911.

Power to prohibit presence of children in factories.

10. After section 19 of the said Act, the following sections shall be inserted, namely :—

"19A. Where, in the opinion of the Inspector, the presence in any factory or any part thereof of children, who, by reason of their age, cannot under the provisions of this Act, be lawfully employed therein, involves danger to, or injury to the health of, such children, he may serve on the manager of such factory an order in writing prohibiting the admission of such children to the factory or part thereof.

Prohibition of employment of women and persons under eighteen years in certain processes.

19B. No person under the age of eighteen years *and no woman* shall be employed in any factory in any of the operations specified in Part I of Schedule I, or, save in accordance with the regulations contained in Part II of Schedule I, in any operation involving the use of lead compounds."

Amendment of section 20, Act XII of 1911.

11. In the proviso to section 20 of the said Act after the word "roof," the words "or to such height as the Inspector may, in any particular case, specify" shall be inserted.

Substitution of new section for section 21, Act XII of 1911.

Rest periods in factories.

12. For section 21 of the said Act, the following section shall shall be substituted, namely :—

"21. (*1*) In every factory there shall be fixed,—

(*a*) for each person employed on each working day—

(*i*) at intervals not exceeding six hours, periods of rest of not less than one hour, *or*

(*ii*) *at the request of the employees concerned, periods of rest of not less than half an hour each so arranged that, for each period of six hours' work done,*

there shall be periods of rest of not less than one hour's duration in all, and that no person shall work for more than five hours continuously, and,

(*b*) for each child working more than five *and a half* hours in any day, a period of rest of not less than half an hour.

(*2*) The period of rest under clause (*b*) shall be so fixed that no such child shall be required to work continuously for more than four hours."

Amendment of section 2, Act XII of 1911.

13. *To clause (b) of sub-section (1) of section 22 of the said Act, the following proviso shall be added, namely :—*

"*Provided that no such substitution shall be made as will result in any person working for more than ten consecutive days without a holiday for a whole day.*"

Amendment of section 23, Act XII of 1911.

14. (*1*) In clause (*a*) of section 23 of the said Act, for the word "nine" the word "*twelve*" shall be substituted.

(*2*) In clause (*c*) of section 23 of the said Act, for the word "seven," the word "six" shall be substituted.

(*3*) The provisions of clause (*a*) of section 23 of the said Act, as hereby amended, shall not apply to any child lawfully employed in a factory on *or before* the first day of July, 1921.

Amendment of section 25, Act XII of 1911.

15. *In section 25 of the said Act, after the word "child," the words "or, save in such circumstances as may be prescribed, any other person" shall be inserted.*

Amendment of section 25, Act XII of 1911.

16. In section 26 of the said Act, for the words "woman or child" and the words "woman and child," the word "person" shall be substituted.

Substitution of new sections for section 27, Act XII of 1911.

17. For section 27 of the said Act, the following sections shall be substituted, namely :—

Limitation of working hours per week.

"27. No person shall be employed in a factory for more than sixty hours in any one week.

Limitation of working hours per day.

28. No person shall be employed in any factory for more than eleven hours in any one day."

Substitution of new Chapter for Chapter V, Act XII of 1911.

18. For Chapter V of the said Act, the following Chapter shall be substituted, namely :—

"CHAPTER V.

EXCEPTIONS.

Exceptions for persons holding positions of supervision, etc.

29. Nothing in any of the following sections, namely, 21, 22, 24, 26, 27 and 28, shall apply to persons who may, by rules made by the Local Government under this Act, be defined to be persons holding positions of supervision or management or to persons employed in a confidential capacity.

Exemptions.

30. (*1*) Where it is proved to the satisfaction of the Local Government—

(*a*) that any class of work in a factory is in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory ; or

(*b*) that the work of any class of workers is essentially intermittent; or

(*c*) that there is in any class of factories any work which necessitates continuous production for technical reasons ; or

(*d*) that any class of factories supplies the public with articles of prime necessity which must be made or supplied every day ; or

(*e*) that in any class of factories the work performed, by the exigencies of the trade or by its nature, cannot be carried on except at stated seasons or at times dependent on the irregular action of natural forces ;

the Local Government may, subject to the control of the Governor-General in Council, by notification in the local official Gazette, exempt on such conditions, if any, as it may impose—

in case (*a*) such class of work from all or any of the provisions of sections 27 and 28 ;

in case (*b*) work of the nature described from all or any of the provisions of sections 22, 27 and 28 ;

in case (*c*) work of the nature described from the provisions of sections *21 and* 22 ;

in cases (*d*) and (*e*) such class of factories from the provisions of section 22.

(*2*) The Local Government may, by general or special order, exempt for such period as may be specified in the order and on such conditions, if any, as it may impose, any factory from all or any of the provisions of sections 21, 22, 27 and 28, on the ground that such exemption is necessary in order to enable such factory to deal with an exceptional press of work.

(*3*) *Nothing in section 21 or section 22 shall apply to work of urgent repairs executed in any factory in such circumstances as may be prescribed.*

Payment for overtime.

31. Where, under the provisions of sub-section (*1*) *of section 30,* any factory has been exempted from the provisions of *section 27, every person employed in* such factory for more than sixty hours in any one week shall be paid, in respect of the overtime, at a rate which shall be at least one and a quarter times the rate at which it is normally paid.

Special exemptions for indigo, tea and coffee factories.

32. The Local Government may, subject to the control of the Governor-General in Council, by notification in the local official Gazette, exempt any indigo factory or any factory situated on, and used solely for the purposes of, a tea or coffee plantation, from all or any of the provisions of sections 21 and 22, on such conditions, if any, as it may impose."

Amendment of section 33, Act XII of 1911.

19. In sub-section (*1*) of section 33 of the said Act, for clauses (*a*) and (*b*), the words "on or before the date on which the factory commences working as such" shall be substituted.

Substitution of new section for section 35, Act XII of 1911. Register of workers.

20. For section 35 of the said Act, the following section shall be substituted, namely :—

"35. In every factory there shall be kept in the prescribed form a register of all the persons employed in such factory, of their hours of work and of the nature of their respective employment."

Amendment of section 36, Act XII of 1911.

21. In section 36 of the said Act—

(*a*) for clause (*b*) of sub-section (*1*), the following shall be substituted, namely :—

"(*b*) the periods of rest fixed under section 21";

(*b*) in clause (*d*) of sub-section (*1*), for the words "women and children, respectively, if not employed in shifts," the words "all persons employed" shall be substituted.

Amendment of section 37, Act XII of 1911.

22. In sub-section (*2*) of section 37 of the said Act,—

(*a*) in clause (*g*) after the word "ventilation," the words "and artificial humidification" shall be inserted;

(*b*) *in clause (j) after the word "machinery," the words "and electrical fittings" shall be inserted;*

(*c*) after clause (*j*), the following clause shall be inserted, namely :—

"(*jj*) the definition of 'persons' under section 29 who shall be deemed to be persons holding positions of supervision or management or persons employed in a confidential capacity."

Insertion of new section 38A in Act XII of 1911.

23. After section 38 of the said Act, the following section shall be inserted, namely :—

Rules for prevention of anthrax.

"38A. The Governor-General in Council may make rules for the adequate disinfection of wool used in factories which may be infected with anthrax spores."

Amendment of section 39, Act XII of 1911.

24. In section 39 of the said Act—

(*a*) in sub-section (*1*) for the word and figures "section 38," the words and figures "sections 38 and 38A" shall be substituted;

(*b*) in sub-section (*2*), for the words and figures "sections 37 and 38," the words and figures "sections 37, 38 and 38A" shall be substituted.

Amendment of section 41, Act XII of 1911.

25. In section 41 of the said Act—

(*a*) *in clause (f) for the words "machinery or boilers," the words "machinery, electrical fittings or boilers" shall be substituted;*

(*b*) in clause (*g*), for the words and figures "or section 18," the words and figures "section 18, section 18A or section 19A" shall be substituted;

(*c*) for the words "two hundred," the words "*five hundred*" shall be substituted.

Amendment of section 43, Act XII of 1911.

26. In section 43 of the said Act, for the words "two hundred," the words "*five hundred*" shall be substituted.

Insertion of new section 43A in Act XII of 1911.

Power of Court to pay compensation out of fine.

27. After section 43 of the said Act, the following section shall be inserted, namely:—

"43A. Where under this Act a Criminal Court imposes a fine or confirms in appeal, revision or otherwise a sentence of fine in respect of an offence causing bodily injury or death, the Court may, when passing judgment, order the whole or any part of the fine recovered to be paid as compensation to the person injured or, in the case of his death, to his legal representative:

Provided that, if the fine is imposed in a case which is subject to appeal, no such payment shall be made before the period allowed for presenting the appeal has elapsed, or, if an appeal has been presented, before the decision of the appeal."

Substitution of new section for section 46, Act XII of 1911.

Presumption as to employment of children.

28. For section 46 of the said Act, the following section shall be substituted, namely:—

"46. If a child over the age of six years is found in any factory or within the precincts thereof, he shall, until the contrary is proved, be deemed to be employed in the factory."

Amendment of section 48, Act XII of 1911.

29. In section 48 of the said Act, at the end of sub-section (2), the words and figures "or section 44" shall be added.

Amendment of section 50, Act XII of 1911.

30. In section 50 of the said Act,—

(a) in sub-section (1), for the words and figures "or section 18," the words and figures "section 18, section 18A or section 19A" shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:

"(4) *Except in the case of an appeal against an order under section 19A*, the appellate authority may, on the application of the appellant, suspend the operation of an order of the Inspector pending the decision of the appeal. But where no such suspension has been granted, such order shall be complied with notwithstanding the fact that an appeal has been presented."

Amendment of section 51, Act XII of 1911.

31. In sub-section (2) of section 51 of the said Act, for the words and figures "section 24, clause (a) and section 29," the words and figures "and section 24, clause (a)" shall be substituted.

Amendment of section 52, Act XII of 1911.

32. In section 52 of the said Act, for the words and figures "section 28 and section 32," the words and figures "section 27, section 28 and section 31" shall be substituted.

Amendment of Schedules to Act XII of 1911.

33. For Schedules I and II to the said Act, the Schedule contained in Schedule I to this Act shall be substituted.

Repeals.

34. The provisions of the said Act specified in Schedule II are hereby repealed to the extent shown in the second column thereof.

SCHEDULE I.

SCHEDULE TO BE SUBSTITUTED IN THE INDIAN FACTORIES ACT, 1911.

(See section 33.)

"THE SCHEDULE.

(See section 19B.)

PART I.

1. Work at a furnace where the reduction or treatment of zinc or lead ores is carried on:

2. The manipulation, treatment, or reduction of ashes containing lead, the desilverising of lead or the melting of scrap lead or zinc:

3. The manufacture of solder or alloys containing more than ten per cent. of lead:

4. The manufacture of any oxide, carbonate, sulphate, chromate, acetate, nitrate or silicate of lead:

5. Mixing or pasting in connection with the manufacture or repair of electric accumulators:

6. The cleansing of work-rooms where any of the processes aforesaid are carried on.

PART II.

1. Where dust or fume from a lead compound is produced in the process, provision must be made for drawing the fume or dust away from the persons employed by means of an efficient exhaust draught so contrived as to operate on the dust or fume as nearly as may be at its point of origin:

2. The persons employed must undergo the prescribed medical examination at the prescribed intervals, and the prescribed record must be kept with respect to their health:

3. No food, drink or tobacco, shall be brought into, or consumed in, any room in which the process is carried on, and no person shall be allowed to remain in any such room during meal times.

4. Adequate protective clothing in a clean condition shall be provided by the employer and worn by the persons employed.

5. Such suitable cloak-room, mess-room and washing accommodation as may be prescribed shall be provided for the use of the persons employed.

6. The rooms in which the persons are employed and all tools and apparatus used by them, shall be kept in a clean condition."

SCHEDULE II.

(See section 34.)

REPEALS.

Section 2	Clause (*4*).
Section 22	*Sub-sections* (*2*), (*3*) *and* (*4*)
Section 36	*Sub-section* (*4*).
Section 38	The words "from time to time."
Section 55	The whole.
Section 59	Ditto.

H. MONCRIEFF SMITH,
Secretary to the Government of India.